THE

LICENSE ACTS

OF

1874 AND 1876.

BEING

37 VIC., CAP. 32, AND 39 VIC., CAP. 26.

ISSUED FROM

THE TREASURY DEPARTMENT,

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CAP. XXXII.

An Act to Amend and Consolidate the Law for the Sale of Fermented or Spirituous Liquors.

[*Assented to 24th December,* 1874.]

WHEREAS it is expedient to amend and consolidate the Act passed in the thirty-second year of Her Majesty's reign, intituled "An Act respecting Tavern and Shop Licenses," and the Act passed in the thirty-third year of the same reign, amending the same, and the Act passed in the thirty-sixth year of the same reign, intituled "An Act to amend the Acts respecting Tavern and Shop Licenses": Preamble.

Therefore Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

INTERPRETATION.

1. In this Act the word "liquors" or "liquor" shall be understood to mean and comprehend all spirituous and malt liquors, and all combinations of liquors and drinks and drinkable liquids which are intoxicating. Meaning of words "liquors" and "liquor."

LICENSES.

2. A "tavern license" shall be construed to mean a license for selling, bartering or trafficking by retail, in fermented, spirituous or other liquors in quantities of less than one quart, which may be drunk in the inn, ale or beer-house, or other house of public entertainment in which the same liquor is sold. Meaning of words "tavern license."

3. A "shop license" shall be construed to mean a license for selling, bartering or trafficking by retail in such liquors in shops, stores, or places other than inns, ale or beer-houses, or other houses of public entertainment, in quantities not less than three half-pints, at any one time, to any one person, and at the time of sale to be wholly removed and taken away, in quantities not less than three half-pints at a time. Meaning of words "shop license."

4. A "license by wholesale" shall be construed to mean a license for selling, bartering, or trafficking by wholesale only in such liquors in warehouses, stores, shops, or places other than inns, ale or beer-houses, or other houses of public entertainment, in quantities not less than five gallons in each cask or vessel, at any one time, and in any case where such selling by wholesale is in respect of bottled ale, porter, beer, wine or other fermented or spirituous liquor, each such sale shall be in quantities not less than one dozen bottles of at least three half-pints each, or two dozen bottles of at least three-fourths of one pint each, at any one time. Meaning of words "license by wholesale." Liquor in bottles.

ISSUE OF LICENSES.

Licenses to be on stamped paper.

5. It shall be lawful for the Lieutenant-Governor in Council to direct the issue of licenses on stamped paper, written or printed, or partly written and partly printed, of the several kinds hereinbefore mentioned, which said licenses shall be signed by the Treasurer of this Province, and dated as of the first day of March in each year, and shall thence continue in force for one year until the first day of March in the next ensuing year, and no longer: Provided that tavern and shop licenses may be issued between the first and fifteenth days of March in each year; and licenses by wholesale may be issued between the first and last days of March in each year; and all such licenses shall be deemed to have been issued on the said first day of March.

Issuer of licenses to be appointed.

6. The Lieutenant-Governor may, from time to time, appoint to hold office during pleasure one fit and proper person, other than the Inspector of Licenses, in each county, city, riding or municipality, to be called "Issuer of Licenses," whose duty it shall be to issue licenses for the county, city, riding or municipality for which he shall be appointed, and who shall countersign every license issued by him, and shall state thereon the date of such countersigning; and every such license shall take effect in favour of the applicant therefor from the time of such countersigning, and not before.

Remuneration for services.

7. For his services in the last preceding section mentioned, the said issuer of licenses shall be entitled to retain out of the moneys received by him for licenses the sum of six per centum, and the residue thereof he shall pay to the Treasurer of Ontario, in such manner as the said Treasurer shall from time to time direct.

Licenses, how issued.

Vessel licenses.

Proviso.

Penalty.

8. Every license shall be issued by the issuer of license for the county, city, riding or municipality in which the tavern, shop, warehouse or other place to which the license is to apply shall be situate, except in the case of licenses for vessels, which may be issued by any issuer of licenses without any certificate or any of the terms, conditions or formalities required in other cases: Provided always, that all licenses shall be constantly and conspicuously exposed in the warehouses, shops or in the bar-room of taverns, inns, ale-houses, beer-houses, or other places of public entertainment, and in the bar-saloon or bar-cabin of vessels, under a penalty of five dollars for every day's wilful or negligent omission so to do, to be recovered with costs from the merchant, shopkeeper or tavern, inn, ale-house or beer-house keeper, or keeper of any other place of public entertainment, or master, captain, or owner of the vessel so making default.

Council and police commissioners may make by-laws.

9. In the respective municipalities in which the sale of intoxicating liquors and the issue of licenses therefor is not prohibited under the provisions of the Temperance Act of 1864, it shall be the duty of the council of the township, town and incorporated village, and of the commissioners of police in cities, to pass by-laws in the month of February in each and every year, and which shall not be altered or repealed during the year from the first day of March following:

For granting tavern and shop license certificates.

1. For defining the conditions and qualifications requisite for granting certificates to obtain tavern licenses for the retail within the municipality, of spirituous, fermented or other manufactured liquors, and also shop licenses for the sale by retail, within the municipality, of such liquors in shops, or places other than taverns, inns, ale-houses, beer-houses or places of public entertainment:

Terms and conditions.

2. For declaring the terms and conditions required to be complied with by an applicant for a tavern license, and the security to be given by him for observing the same:

Security.

3. For declaring the security to be given by an applicant for a shop license, for observing the by-laws of the municipality:

Number limited.

4. For limiting the number of tavern and shop licenses respectively, and for defining the respective times and localities within which and the persons to whom such limited number may be issued within the year, from the first day of March of one year till the first day of March of the next year:

Certain persons exempted from having accommodation.

5. For declaring that in cities a number not exceeding ten persons, and in towns a number not exceeding four persons, qualified to have a tavern license, may be exempted from the necessity of having all the tavern accommodation required by law:

Regulation of public houses.

6. For regulating the taverns and shops to be licensed:

7. For determining the sums to be paid to the municipality in respect of taverns and shop licenses respectively:

Inspectors may be appointed,

8. For appointing annually one or more fit and proper persons other than any issuer of licenses, to be inspector or inspectors of licenses; and of filling any vacancy in such office;

and their duties and remuneration defined.

9. For fixing and defining the duties, powers and privileges of the inspector or inspectors so appointed; the remuneration he or they shall receive; and the security to be given for the efficient discharge of the duties of the office of inspector.

Certificate of number of licenses issuable to be furnished to issuer.

10. The clerk of every township, incorporated village and town, and the police commissioners in every city, shall, on or before the last day of February in each year, deliver to the issuer of licenses for the county, city, riding or municipality in which such municipality is situate, a certificate under his or their hand, stating and showing the number of tavern and shop licenses which are authorized by the by-law in that behalf to be issued for the then next ensuing year, and the respective times and localities within which and the persons to whom such number may be issued, and any such clerk or police commissioners neglecting, omitting or refusing to deliver such certificate by the time aforesaid, shall incur a penalty of not less than forty dollars, nor more than one hundred dollars.

Penalty.

Issuer not to issue a greater number.

11. The issuer of licenses for each county, city, riding or municipality, as the case may be, shall not issue a greater number of tavern and shop licenses in any county, city, riding or municipality, than is named in such certificate or certificates, as the case may be, and only at the respective times and for the localities within which and the persons to whom such number may be issued.

OBTAINING LICENSES.

Accommodation required.

12. Every tavern and inn authorized to be licensed under the provisions of this Act, shall contain, and during the continuance of the license shall continue to contain, in addition to what may be needed for the use of the family of the tavern or innkeeper, not less than four bed-rooms, together with, in every case, a suitable complement of bedding and furniture, and (except in cities and incorporated towns) there shall also be attached to the said tavern or inn, proper stabling for at least six horses, but the foregoing requirements shall not apply to such taverns as are licensed under the fifth sub-section of section nine of this Act, and, excepting in townships, such tavern or inn shall form no part of, and shall not communicate by any entrance with any shop or store wherein goods or merchandize known as groceries or provisions are kept for sale.

No certificate to be granted except upon petition.

13. A certificate for a license to sell spirituous, fermented or other manufactured liquors, by retail, in any tavern, ale-house, beer-house, place of public entertainment or shop, shall not be granted to any applicant, except upon petition by the applicant to the council of the township, town, or incorporated village, and to the commissioners of police in cities in which the license is to have effect, praying for the same; nor until the inspector, to be appointed as aforesaid, shall have reported in writing to the police commissioners, or to the clerk of the municipal council (as the case may be), that the applicant is a fit and proper person to have a license, and has all the accommodation required by law, and every such report shall be duly filed by the police commissioners or municipal clerk respectively, and shall remain open to the inspection of any ratepayer of the municipality or of any Provincial officer, and the inspector shall not report in favour of any applicant other than the true owner of the business of the tavern or shop proposed to be licensed.

Cases in which certificates may be granted.

14. It shall be the duty of the commissioners of police in cities, of the mayor and clerk in towns, and reeve and clerk in townships and incorporated villages, respectively, upon application of any person requiring a tavern or shop license, if it shall appear that such applicant is the true owner of the business of such tavern or shop and has complied with the requirements of the law, and of the by-laws and regulations in force in the municipality in that behalf, and is one of the persons designated in such by-law as entitled thereto, or is otherwise approved by

Mode of procedure for obtaining tavern licenses.

Proviso.

Proviso as its being granted at certain times and places.

the police commissioners or council of the municipality, as the case may be, to grant such applicant a certificate under his or their hand, stating that he is entitled to a license for a certain time, and for a certain tavern, inn, house or place of public entertainment, or shop within the municipality to be mentioned in such certificate; and the said applicant shall forthwith take the said certificate to the issuer of licenses for the municipality within which the said license is to have effect, and, on presentation thereof to the said issuer of licenses, and payment to him of the Provincial duty thereon, the said issuer of licenses shall issue to such applicant a license: Provided always, that the said license shall be invalid, inoperative and of no effect until the said applicant shall have paid to the treasurer of the said municipality the sum also made payable therefor to the said municipality in manner in this Act provided, for the use of the said municipality, and shall have obtained a receipt for such payment, signed by the said treasurer, and endorsed on the said license; and it shall be the duty of the said treasurer, on payment or tender to him of the money last aforesaid and the said license, to fill up and sign such receipt: Provided always further, that it shall not be lawful to grant any certificate for a license, or any certificate whatsoever, whereby any person can obtain or procure any license for the sale of spirituous, fermented or intoxicating liquors, on the days of the exhibition of the Agricultural Association of Ontario, or of any county, electoral division, or township agricultural society exhibition, either on the grounds of such society, or within the distance of three hundred yards from such grounds.

Issue of licenses by wholesale.

Proviso as to fee to treasurer of municipality.

15. The issuer of licenses for the municipality in which the license applied for is to have effect shall issue to any applicant, upon a requisition therefor signed by him, and after payment to the issuer of the Provincial duty thereon, a license for selling fermented, spirituous or other liquors by wholesale only in his warehouse, store, shop or place to be defined in said license, and situate within the said municipality, and which license shall be deemed "a license by wholesale" within the meaning and subject to the provisions of the fourth section of this Act: Provided always, that the said license shall be invalid, inoperative and of no effect until the said applicant shall have further paid to the treasurer of the municipality in which the said license is intended to take effect, the sum of fifty dollars, for the use of such municipality, and shall have obtained a receipt for such payment signed by the said treasurer and endorsed on the said license, and it shall be the duty of the said treasurer on payment or tender to him of the money last aforesaid, and the said license, to fill up and sign such receipt.

Licenses to be such for purposes of Provincial duty, etc.

16. Every license issued under this Act shall be a license for the purpose of the Provincial duty, as well as for the sum to be payable to the municipality therefor; and the sum paid for the license, over and above the Provincial duty, shall be applied to the use of the municipality within which is situate the tavern, inn, ale-house, beer-house, shop, warehouse, or other place in which such license is to have effect.

TRANSFER OF LICENSE.

Transfers of licenses.

17. If any person having lawfully obtained a license under this Act before the expiration of his license dies, or sells, or by operation of law or otherwise assigns his said business, or removes from the house or place in respect of which the said license applies, such person, his assigns or legal representatives may, with the consent of the issuer of licenses for the municipality in which the said license has effect (such consent to be endorsed on said license), transfer such license to any other person who, under such transfer, may exercise the rights granted by such license, subject to all the duties and obligations of the original holder thereof, until the expiration thereof, in the house or place for which such license was issued and to which it applies, but in no other house or place: Provided always, that in every case of a tavern license, the person in whose favour any such transfer is to be made shall first produce to the said issuer of licenses a certificate similar to that mentioned in the thirteenth section of this Act, and which certificate it shall be the duty of the respective official persons therein mentioned to grant: And provided also, that such transfer shall be made within one month after the death, assignment or removal of the original holder of such license, and not afterwards.

Proviso.

Proviso.

Inspector of licenses may consent to removal of tavern keeper to another house.

18. Any inspector of licenses may, in his discretion, but after resolution allowing the same of the municipal council or commissioners of police, as the case may be, having jurisdiction and subject to the approval of the issuer of licenses, endorse on any tavern or shop license permission to the holder thereof, or his assigns or legal representatives, to remove from the house to which his said license applies to another house to be described in an endorsement to be made by the said inspector on the said license, and situate within the same municipality, and possessing all the accommodation required by law; and such permission, when the approval of the said issuer is endorsed on the said license, shall authorize the holder of the said license to sell the same liquors in the house mentioned in the endorsement during the unexpired portion of the term for which the said license was granted, in the same manner, and upon the same terms and conditions; and any bond or security which such holder of a license may have given for any purpose relative to such license, shall apply to the house or place to which such removal is authorized, but such permission shall not entitle him to sell at any other than this one place.

REGULATIONS.

Tavern keepers to exhibit notice of being licensed.

19. Every person who keeps a tavern, inn, ale-house, beer-house, or other house, or place of public entertainment, in respect of which a tavern license has duly issued and is in force, shall exhibit over the door of such tavern, inn, ale-house, beer-house or other place of public entertainment, in large letters, the words "Licensed to sell wine, beer, and other spirituous or fermented liquors," and, in default thereof, shall be liable to a penalty of five dollars besides costs.

Penalty.

20. No person having a shop license to sell by retail, shall allow any liquors sold by him, or in his possession, and for the sale of which a license is required, to be consumed within his shop, or within the building which such shop forms part of, or which communicates by any entrance with such shop, either by the purchaser thereof, or by any other person not usually resident within such building, under a penalty of twenty dollars besides costs.

Shop license not to authorize liquor sold to be consumed in the house.

Penalty.

21. No person having a license to sell by wholesale shall allow any liquors sold by him or in his possession for sale, and for the sale or disposal of which such license is required, to be consumed within his warehouse or shop, or within any building which forms part of or is appurtenant to, or which communicates by any entrance with, any warehouse, shop or other premises wherein any article to be sold or disposed of under such license is sold by retail, or wherein there is kept any broken packages of such articles.

Liquor not to be consumed on premises of persons having license by wholesale.

DUTIES PAYABLE.

22. Over and above the sum which may be imposed by municipalities, as by law provided, there shall be paid for each tavern license, to and for the use of Her Majesty (and forming part of the Consolidated Revenue Fund of this Province), in cities, a duty of thirty dollars; in towns, of twenty-five dollars; and in townships and incorporated villages, of fifteen dollars; for vessels navigating the waters of this Province, of thirty dollars; for each shop license, by retail, in cities, of thirty dollars; in towns, of twenty-five dollars; and in townships and incorporated villages, of fifteen dollars; for each license by wholesale, of fifty dollars; for each tavern license in any territory not under municipal government, of fifty dollars; and for each shop license in any such territory, of forty dollars: Provided, that for each tavern license mentioned in section nine, sub-section five, the Provincial duty shall be thirty-five dollars.

Fees for licenses.

Proviso.

23. The sum to be paid for a tavern or shop license, in addition to the Provincial duty mentioned in the last preceding resolution, shall be such a sum as shall be fixed by by-law of the municipality passed by the proper authority in that behalf; and, including the Provincial duty, shall be, in cities, not less than eighty dollars for taverns and for shops; in towns, not less than sixty dollars for taverns and for shops; and in town-

Sums to be paid in addition to Provincial duty.

Proviso.

ships and incorporated villages, not less than thirty dollars for each tavern and shop license: Provided always, that for each tavern license mentioned in section nine, sub-section five, the said sum in cities shall not be less than one hundred dollars, and in towns not less than eighty dollars; but no by-law, by which a greater sum than one hundred and thirty dollars per annum is intended to be exacted for any tavern or shop license, or for leave to exercise any other calling, or to do any other thing for which a license may be required, shall have any force or effect, unless the by-law, before the final passing thereof, shall have been duly approved by the electors of the municipality, in the manner provided by the Municipal Act: and any by-law so passed shall not be varied or repealed, unless the varying or repealing by-law shall have been, in like manner, submitted to and approved of by the electors of the said municipality.

Such sum to be approved by public vote, etc.

PROHIBITIONS.

No person shall sell liquors without license.

24. No person shall sell by wholesale or retail any spirituous, fermented, or other manufactured liquors within the Province of Ontario without having first obtained a license under this Act authorizing him so to do: Provided that this section shall not apply to sales under legal process, or for distress, or sales by assignees in insolvency.

Persons not to keep spirituous, etc., liquors for sale unless licensed.

25. No person shall keep or have in any house, building, shop, eating-house, saloon, or house of public entertainment, or in any room or place whatsoever, any spirituous, fermented or other manufactured liquors for the purpose of selling, bartering or trading therein, unless duly licensed thereto under the provisions of this Act.

Two preceding sections not to apply to brewers, &c.

26. The last two preceding sections shall not prevent any brewer, distiller, or other person duly licensed by the Government of Canada for the manufacture of fermented, spirituous, or other liquors, from keeping, having or selling any liquor manufactured by him in any building wherein such manufacture is carried on, and which building forms no part of and does not communicate by any entrance with any shop or premises wherein any article authorized to be manufactured under such license is sold by retail, or wherein is kept any broken packages of such articles: Provided that any such brewer, distiller or other person is further required to first obtain a license to sell by wholesale under this Act the liquor so manufactured by him, when sold for consumption within this Province, and under which license the said liquor may be sold by sample, or in original packages, in any municipality, as well as in that in which it is manufactured, but so that no such sale shall be in quantities less than those prescribed in section four of this Act.

Nor to chemists.

27. The said sections numbered twenty-four and twenty-five of this Act shall not prevent any chemist or druggist duly registered as such under and by virtue of the "Pharmacy Act of 1871," from keeping, having or selling liquors for strictly medicinal purposes, and then only in packages of not more than twelve ounces at any one time, except under certificate from a registered medical practitioner.

All places where intoxicating liquors sold to be closed from seven o'clock on Saturday night till six o'clock on Monday morning.

28. In all places where intoxicating liquors are, or may be, sold by wholesale or retail, no sale or other disposal of the said liquors shall take place therein, or on the premises thereof, or out of or from the same, to any person or persons whomsoever, from or after the hour of seven of the clock on Saturday night till six of the clock on Monday morning thereafter, and during any further time on the said days, and any hours or other days during which, by any statute in force in this Province, or by any by-law in force in the municipality wherein such place or places may be situated, the same, or the bar-room or bar-rooms thereof, ought to be kept closed, save and except in cases where a requisition for medical purposes, signed by a licensed medical practitioner, or by a justice of the peace, is produced by the vendee or his agent; nor shall any such liquor be permitted or allowed to be drunk in any such places during the time prohibited by this Act for the sale of the same.

Exception.

Sale of liquors from ships in port prohibited.

29. Where a license is issued, under this Act, to authorize the sale of liquors upon any vessel navigating any river, lake, or water in this Province, no sale or other disposal of liquor shall take place thereon or therefrom, to be consumed by any person other than a passenger on the said vessel, whilst such vessel is at any port, pier, wharf, dock, mooring or station; and in case any such sale or other disposal of liquor shall take place, the said license shall *ipso facto* be and become forfeited and absolutely void, and the captain or master in charge of such vessel, and the owner or person navigating the same, as well as the person actually selling or disposing of liquor contrary to this section, shall be severally and respectively liable to pay to the Crown, for the public uses of this Province, the sum of one hundred dollars; and any person who may sell or dispose of any liquor contrary to the provisions of this section, shall also be liable to the same penalty and punishment therefor as are hereinafter prescribed in the thirty-fourth section of this Act.

PENALTIES.

Not lawful for chamberlain or treasurer to take money for certificate until Provincial duty paid.

30. It shall not be lawful for the commissioners of police in cities, or any of them, nor for any member of any municipal council, nor for the clerk, treasurer, or any officer of such municipality, either directly or indirectly, to receive, take, or have any money whatsoever, for any certificate, matter or thing connected with, or relating to any license, or the sum to be therefor paid to the said municipality, or any part thereof, or to receive, take, or have any note, security or promise for the payment of any such money or any part thereof, from any person or persons whatsoever, until and after the said license shall have been issued by the issuer of licenses in the manner aforesaid; and any person or persons guilty of, or concerned in, or a party to any act, matter or thing contrary to the provisions of this section, or of section fourteen of this Act, shall forfeit and pay to and for the use of Her Majesty a penalty of not less than fifty dollars, nor more than one hundred dollars, besides costs, for every such offence.

Penalty.

Penalty for issuing any certificate contrary to this Act.

31. Any member of a municipal corporation, or officer or other person who shall, contrary to the provisions of this Act, knowingly vote for or issue, or cause or procure to be issued, a certificate for a tavern or shop license, shall, upon conviction thereof, for each offence pay a fine of not less than forty dollars, nor more than one hundred dollars; and in default of payment of such fine, the offender or offenders may be imprisoned in the county gaol of the county in which the conviction takes place for a period not exceeding three calendar months.

Forfeiture of office by municipal officer, if convicted under Act.

32. If any officer of any municipal corporation shall be convicted of any offence under this Act, he shall thereby forfeit and vacate his office, and he shall be disqualified to hold any office in any municipality in this Province for two years thereafter.

Forfeiture of office by municipal councillor if convicted.

33. If any member of any municipal council shall be convicted of any offence under this Act, he shall thereby forfeit and vacate his seat, and shall be ineligible to be elected to or to sit or vote in any municipal council for two years thereafter; and if any such person, after the forfeiture aforesaid, shall sit or vote in any municipal council, he shall incur a penalty of forty dollars for every day he shall so sit or vote.

Penalty.

Penalty for contravention of sec. 28.

34. For punishment of offences against section twenty-eight of this Act, a penalty for the first offence against the provisions thereof, of not less than twenty dollars with costs, or fifteen days' imprisonment with hard labour, in case of conviction, shall be recoverable from, and leviable against, the goods and chattels of the person or persons who are the proprietors in occupancy, or tenants or agents in occupancy of the said place or places, who shall be found by himself, herself, or themselves, or his, her, or their servants or agents, to have contravened the enactment in the said twenty-eighth section, or any part thereof; for the second offence, a penalty against all such of not less than forty dollars with costs, or twenty days' imprisonment with hard labour; for a third offence, a penalty against all such of not less than one hundred dollars with costs, or fifty days' imprisonment with hard labour; and for a fourth or any after offence, a penalty against all such of not less than one nor more than three months' imprisonment with hard labour, in the common gaol of the county wherein such place or places may be, the number of such offences to be ascertained by the production of a certificate under the hand of the convicting justice, or by other satisfactory evidence to the justice before whom the information and complaint may be made; and it is hereby enacted, that convictions for several offences may be made under this Act, although such offences may have been committed in the same day: Provided always, that the increased penalties hereinbefore in this section imposed shall only be recoverable in the case of offences committed on different days.

Proviso.

Penalty for selling without license.

35. Any person who shall sell or barter spirituous, fermented or manufactured liquors of any kind, or intoxicating liquors of any kind, without the license therefor by law required, shall, for the first offence, on conviction thereof, forfeit and pay a penalty of not less than twenty dollars besides costs, and not more than fifty dollars besides costs; and for the second offence, on conviction thereof, such persons shall be imprisoned in the county gaol of the county in which the offence was committed, to be kept at hard labour for a period not exceeding three calendar months; and for the third and any after offence, on conviction thereof, such person shall be imprisoned in the county gaol of the county in which the offence was committed, to be kept at hard labour for a period of not less than one nor more than three calendar months; and the number of convictions may be ascertained by the production of a certificate under the hand of the convicting justice, or by other satisfactory evidence.

Keepers of disorderly inns subject to certain penalties.

36. The mayor or police magistrate of a town or city, or the reeve of a township or village, with any one justice of the peace, or any two justices of the peace having jurisdiction in the township or village, upon complaint made on oath to them, or one of them respectively, that any keeper of any inn, tavern, ale-house, beer-house, or other house of public entertainment, situate within their jurisdiction, sanctions or allows gambling or riotous or disorderly conduct in his tavern or house, may summon the keeper of such inn, tavern, ale or beer-house to answer the complaint, and may investigate the same summarily, and either dismiss the complaint with costs to be paid by the complainant, or convict the keeper of having an improper or a riotous or disorderly house, as the case may be, and annul his license, or suspend the same for not more than sixty days, with or without costs, as in his or their discretion may seem just; and in case the keeper of any such inn, tavern, ale-house, beer-house, or place of public entertainment, shall be convicted under this section, and his license annulled, he shall not be eligible to obtain a license for the period of two years thereafter.

Power of county judge as to licenses improperly obtained.

37. The judge of the county court of the county in which the municipality is situate, wherein the license complained of is intended to take effect, upon the complaint of any person that such license has been issued contrary to any of the provisions of this Act or of any by-law in force in the said municipality, or that such license has been obtained by any fraud, or that the person licensed has been convicted on more than one occasion for any violation of the provisions of the thirty-sixth section of this Act, or has been convicted for the fourth or any after offence under the twenty-eighth section of this Act, shall summon the person to whom such license issued to appear, and shall proceed to hear and determine the matter of the said complaint in a summary manner, and may upon such hearing, or in default of appearance of the person summoned, determine and adjudge that such license upon any of the causes aforesaid ought to be revoked, and thereupon shall order and adjudge that such license is and stands revoked and cancelled accordingly, and thereupon such license shall be and become inoperative and of none effect, and the person to whom such license issued shall thereafter, during the full period of two years, be disqualified from obtaining any further or other license under this Act, and the said order and adjudication of the said judge shall be final and conclusive, and shall not be the subject of appeal or revision by any court whatever; or the said judge may, in his discretion, dismiss the matter of the said complaint, with or without costs to be paid by the complainant.

Power of county judge as to inspectors neglecting their duties.

38. The judge of the county court of the county in which the municipality is situate, in which any inspector or inspectors of licenses is or are appointed, upon complaint made by any person that any such inspector is guilty of wilfully neglecting to do or observe, or of wilfully doing any act, matter or thing contrary to his duty as such inspector, shall summon such inspector to appear, and shall proceed to hear and determine the matter of the said complaint, and upon such hearing, or in default of appearance of the said inspector being duly summoned, may determine that such inspector is guilty of the matter complained of, and ought to be removed from his said office of inspector, and shall order the same accordingly, and thereupon such person shall no longer be inspector, and the council or police commissioners, as the case may be, in the said municipality, shall immediately appoint another inspector in his place, and the person so removed shall thereafter, for the full period of two years, be disqualified from being or becoming an inspector of licenses, and the said order and adjudication of the said judge shall be final and conclusive, and shall not be the subject of appeal or revision by any court whatsoever, or the said judge may, in his discretion, dismiss the matter of the said complaint, with or without costs to be paid by the complainant.

Penalty in case any person shall compromise, compound or settle a case.

39. Any person who, having violated any of the provisions of this Act, shall compromise, compound or settle, or shall offer or attempt to compromise, compound or settle the offence with any person or persons, with the view of preventing any complaint being made in respect thereof, or if a complaint shall have been made with the view of getting rid of such complaint, or of stopping or having the same dismissed for want of prosecution, or otherwise, shall be guilty of an offence under this Act, and, on conviction thereof, shall be imprisoned at hard labour in the common gaol of the county in which the offence was committed for the period of three calendar months.

Penalty for being concerned in any such compromise, etc.

40. Every person who shall be concerned in, or be a party to, the compromise, composition or settlement mentioned in the next preceding section, shall be guilty of an offence under this Act, and, on conviction thereof, shall be imprisoned in the common gaol of the county in which the offence was committed for the period of three calendar months.

Penalties or punishments not to be remitted.

41. No police magistrate or justice or justices of the peace, municipal council or municipal officer, shall have any power or authority to remit or compromise any penalty or punishment inflicted under this Act.

Penalty for tampering with a witness.

42. Any person who, on any prosecution under this Act, tampers with a witness, either before or after he or she is summoned or appears as such witness on any trial or proceeding under this Act, or by the offer of money, or by threats, or in any other way, either directly or indirectly, induces or attempts to induce any such person to absent himself or herself, or to swear falsely, shall be liable to a penalty of fifty dollars for each offence.

Applications of penalties.

43. The penalties in money under this Act, or any portion of them which may be recovered, shall be paid to the convicting justice or justices in the case, and shall by him, or them, in case any officer appointed by the Lieutenant-Governor is the prosecutor or complainant, be paid to the Treasurer of Ontario, and in case such Provincial officer is not the prosecutor or complainant, then the same shall be paid to the treasurer of the municipality wherein the offence was committed; and for the recovery of the said penalties and legal costs, upon and after conviction in cases not appealable, and in cases appealable where an appeal has not been perfected according to law, it shall and may be lawful for any justice or justices to issue a warrant of distress to any constable or peace officer, against the goods and chattels of the person or persons convicted; and in case no sufficient distress be found to satisfy the said conviction, then in cases not otherwise provided for by this Act, it shall and may be lawful for the said justice or justices to order that the person or persons so convicted be imprisoned in any common gaol within the county, or gaol or lock-up house, in which such conviction was made, for any period not exceeding thirty days, unless the penalty and all costs be sooner paid. The council of any municipality shall set apart not less than one-third part of such fines or penalties received by the said municipality for a

Penalties and costs, how recoverable.

fund to secure the prosecutions for infractions of this Act, and of any by-laws passed in pursuance thereof.

PROCEEDINGS AND EVIDENCE.

Prosecutions for selling without license to be before two or more justices or police magistrate.

44. All prosecutions for the punishment of the several offences against the provisions of this Act, contained in sections numbered respectively twenty-eight, twenty-nine, thirty, thirty-five, and thirty-six, whether the prosecution be for the recovery of a penalty or for punishment by imprisonment, shall take place before any two or more of Her Majesty's justices of the peace having jurisdiction in the municipality in which the offence is committed, or in cities and towns where there is a police magistrate, before the police magistrate, who, it is hereby declared, shall have authority to hear and determine the same in a summary manner according to the practice and procedure, and after forms contained in and appended to the Act chaptered one hundred and three of the Consolidated Statutes of Canada, intituled An Act respecting the duties of the Justices of the Peace out of Sessions in relation to summary convictions and orders, and the Act or Acts amending the same; and on such trials and proceedings the prosecutor or complainant shall be a competent witness; and in all cases of prosecution for any offence against the provisions of the thirty-fifth section of this Act, the conviction or order of the said two or more justices, or of the said police magistrate, as the case may be, shall be final and conclusive; and against such conviction or order there shall be no appeal to the court of general sessions of the peace, or to any other court, except as hereinafter mentioned, any statute, usage, custom, or law to the contrary notwithstanding; and all prosecutions in this section mentioned shall be commenced within twenty days after the commission of the offence or after the cause of action arose, and not afterwards:

Mode of procedure.

Conviction to be final.

Prosecutions to be commenced within twenty days.

Appeal from convictions.

2. An appeal shall lie from a conviction had under the thirty-fifth section of this Act to the judge of the county court of the county in which the conviction is made sitting in Chambers, without a jury, within twenty days after the said conviction;

(*a*) The justices of the peace or police magistrate (as the case may be) shall, in all cases of complaint under the said section of this Act, reduce to writing the whole of the evidence of the witnesses examined before them, or him, and shall read the same over to the witnesses, who shall sign the same;

(*b*) At the request of the person convicted, the justices of the peace or police magistrate, who have or has convicted, upon deposit made with them, or him, of the amount of the penalty and the costs, and a further sum of ten dollars shall, within five days after the date of the said conviction, transmit by registered letter, post-paid, all the proceedings and evidence to the clerk of the county court;

(*c*) Within ten days after the date of the said conviction, if the judge of the county court be of opinion from the said evidence that the conviction may be erroneous, he may grant a summons calling upon the county attorney and the prosecutor to show cause why the said conviction may not be quashed ;

(*d*) Upon the return of the summons, the judge may, upon hearing the parties, either affirm or quash the said conviction, or if he shall see fit may hear the evidence of such other witness or witnesses, or the further evidence of any witness already examined, and may then make an order affirming or quashing the said conviction as he may think just, and may order the payment of costs, and shall fix the amount thereof;

(*e*) Upon production of the judge's order, the justices of the peace or police magistrate who have convicted shall issue their or his warrant for payment of such further sum for costs, as the sum deposited with them or him is insufficient to pay ; if the conviction be quashed, the judge shall order a return of the money so deposited ; and shall order payment of such sum for costs as he may tax and order, and unless the sum be paid by the complainant the justices or police magistrate may issue their or his warrant to levy the costs ;

(*f*) The judge shall have as full a power to correct and amend any formal objection in the conviction, as he would have to amend any proceeding in a civil cause in the county court.

All other prosecutions may be before one or more justices or a police magistrate.

45. All prosecutions under this Act, other than those mentioned in the next preceding section whether for the recovery, of a penalty or otherwise, may be brought and heard before any one or more of Her Majesty's justices of the peace in and for the county where the forfeiture took place, or the penalty was incurred, or the offence was committed or wrong done, and in cities and towns in which there is a police magistrate, before the police magistrate ; and the procedure shall be that of justices out of sessions in relation to summary convictions and orders ; and all prosecutions provided for under this section shall be commenced within two months after the commission of the offence or the cause of action arose, and not afterwards.

Mode of procedure.

Prosecutions to be commenced within two months.

Appeal from convictions.

46. In all cases of prosecutions for any offence against any of the provisions of this Act, other than those contained in the said thirty-fifth section, an appeal shall lie from any order or conviction, in the same manner and to the same extent as is provided in and by the said Act, chaptered one hundred and three of the Consolidated Statutes of Canada, respecting summary convictions.

Any person may be prosecutor, etc.

47. Any person may be prosecutor or complainant in prosecutions under this Act ; and no person shall be rendered incompetent as a witness by reason of his being interested in any portion of the penalty sought to be recovered.

By-laws by police commis-

48. In all cases where the board of police commissioners in sioners in cities may have penalties attached thereto, etc.

cities are authorized to make by-laws either under this or any other Act or law, they shall have power in and by such by-laws to attach penalties for the infraction thereof, to be recovered and enforced by summary proceedings before the police magistrate of such city for which the same may be passed, or, in his absence, before any justice of the peace having jurisdiction therein, in the manner and to the extent that by-laws of city councils might be enforced under the authority of the Municipal Institutions Act; and the convictions in such proceedings may be in the form set forth in the said Act.

How such by-laws authenticated, etc.

49. All by-laws of such board of police commissioners shall be sufficiently authenticated by being signed by the chairman of such board, who shall pass the same; and a copy of any such by-law written or printed, and certified to be a true copy by any member of such board, shall be deemed authentic, and be received in evidence in any court of justice without proof of any such signature, unless it is specially pleaded or alleged that the signature to any such original by-law has been forged.

Places in which the sale of liquor is presumed.

50. Any house, shop, room or other place in which are proved to exist a bar, counter, beer pump, kegs, jars, decanters, tumblers, glasses or any other appliances or preparations similar to those usually found in taverns and shops where spirituous or fermented liquors are accustomed to be sold or trafficked in, shall be deemed to be a place in which spirituous, fermented or other manufactured liquors are sold under the twenty-fifth section of this Act, unless the contrary is proved by the defendant in any prosecution; and the occupant of such house, shop, room or other place, shall be taken conclusively to be the person who has, or keeps therein, such liquors for sale, barter or traffic therein.

Persons or lights in bar-rooms at prohibited times, when so proved, to be *prima facie* evidence of illegal sale of liquor.

51. In cities, towns and incorporated villages, in all cases where any person or persons, other than members of the family or household of the keeper of a licensed tavern or saloon, is or are found frequenting or present, or gas or other light is seen burning, in the bar-room of such tavern or saloon, where liquor is trafficked in, at any time during which the sale or other disposal of liquors is prohibited by any provision of this Act, any such fact, when proved, shall be deemed and taken as *prima facie* evidence that a sale or other disposal of liquors by the keeper of such tavern or other place has taken place contrary to the provisions of the twenty-eighth section of this Act; and such keeper may thereupon be convicted of an offence against said section, and shall, upon conviction, be subject to the punishment prescribed in and by the thirty-fourth section of this Act.

Liability of occupants.

52. The occupant of any house, shop, room or other place in which any sale, barter or traffic of spirituous, fermented or manufactured liquors, or any matter, act or thing, in contravention of any of the provisions of this Act, has taken place, shall be personally liable to the penalty and punishments prescribed in the thirty-fourth and thirty-fifth sections of this Act, as the case may be, notwithstanding such sale, barter or traffic be made by some other person, who cannot be proved to have so acted under or by the directions of such occupant.

Proof of being licensed to rest on the defendant.

53. In any prosecution under this Act, whenever it appears that the defendant has done any act or been guilty of any omission in respect of which, were he not duly licensed, he would be liable to some penalty under this Act, it shall be incumbent upon the defendant to prove that he is duly licensed, and that he did the said act lawfully, and the production of a license which on its face purports to be duly issued, and which, were it duly issued, would be a lawful authority to the defendant for such act or omission, shall be *prima facie* evidence that the defendant is so entitled, and in all cases the signature to and upon any instrument purporting to be a valid license shall *prima facie* be taken to be genuine.

OFFICERS TO ENFORCE THE LAW AND THEIR DUTIES.

Appointment of officers to enforce this Act.

54. The Lieutenant-Governor may appoint one or more provincial officers, whose duty it shall be to enforce the observance of the provisions of this Act; and the council of every county, township, town and incorporated village, and the commissioners of police in each city shall, some time in the month of February in each year, appoint an officer or officers for the municipality, for the like purposes, and for the observance and enforcement of any by-law of the municipality, with respect to tavern and shop licenses, and shall fix and define the duties, powers and privileges of the officer or officers so appointed; the remuneration he or they shall receive, and the security to be given for the efficient discharge of the duties of the said office.

Present appointment of officers.

Duties of fficers and county attorneys on receiving information of infringement of this Act.

55. Any provincial officer, or any police officer or constable, or inspector of licenses, shall be deemed to be within the provisions of this Act; and when any information is given to such officer that there is cause to suspect that some person is violating any of the provisions of this Act, it shall be the duty of such officer to make diligent enquiry into the truth of such information, and enter complaint of such violation before the proper court, without communicating the name of the person giving such information; and it shall be the duty of the county attorney, within the county in which the offence is committed, to attend to the prosecution of all cases committed to him by the provincial officer.

Right of constables to enter taverns, &c.

56. Any provincial officer, police officer or constable, or inspector of licenses, may, at any time, enter into any tavern, inn, ale-house, beer-house, or other house or place of public entertainment, or into any shop, warehouse or other place wherein refreshments or liquors are sold, or reputed to be sold, whether under license or not; and any person being therein, or having charge thereof, who refuses, or after due summons fails to admit such provincial or police officer, or constable, or inspector, into the same, or offers any obstruction to his admission thereto, shall be liable to a penalty of not less than ten dollars, nor more than fifty dollars, for every such offence.

Penalty.

Duty of constables and others to prosecute offenders.

57. It shall be the duty of every police officer, or constable, or inspector of licenses in each municipality, to see that the several provisions of this Act are duly observed, and to proceed by information and otherwise prosecute for the punishment of any offence against the provisions of this Act; and in case of wilful neglect or default in so doing in any case, such police officer, constable or inspector shall incur a penalty of ten dollars for each and every such neglect and default.

Provisions as to harbouring constables on duty.

58. Any person licensed to sell wine, beer or spirituous liquors, or any keeper of any house, shop, room, or other place for the sale of liquors, who shall knowingly harbour or entertain any constable belonging to any police force, or suffer such person to abide or remain in his shop, room or other place during any part of the time appointed for his being on duty, unless for the purpose of quelling any disturbance, or restoring order or otherwise in the execution of his duty, shall, for any of the offences aforesaid, be deprived of his license.

TERRITORIAL DISTRICTS.

This Act to apply to the territorial and unorganized districts.

59. The several provisions of this Act shall apply to the territorial and unorganized districts of this Province, and in any prosecution or proceeding thereunder the stipendiary magistrate in any such district shall possess and exercise all the powers and jurisdictions of the mayor, police magistrate, or other convicting justice or justices of the peace, under this Act; and any money penalty imposed and recovered shall be paid to the Treasurer of Ontario; and the lock-up of such district shall be deemed to be a gaol for the purpose of imprisonment under this Act; and the provisions of this Act, applicable to townships, shall apply to all municipalities organized under the Acts providing for the establishment of municipal institutions in various territorial districts.

Issue of licenses for places not within a municipality.

60. The licenses to be issued for the sale of spirituous, fermented, or other manufactured liquors, in any place not within a municipality, may be issued on such conditions and under such regulations as the Lieutenant-Governor in Council may from time to time direct, subject to the provisions of this Act; and any bond which the Lieutenant-Governor in Council may direct to be taken from any person obtaining a license under this Act, for any such place conditional for the observance of the law, and of all regulations to be made under this section, shall be valid, and may be enforced according to its tenor.

REPEALING CLAUSE.

32 V., c. 32; 33 V., c. 28; and 36 V., c. 34, repealed.

61. The several Acts in the recital hereof mentioned are hereby repealed, but the repeal thereof shall not revive any Act or provision of law by them repealed, or prevent the effect of any saving clause therein, or the application of any such Acts or of any provision therein formerly in force to any transaction, matter or thing anterior to the said repeal, and to which they would otherwise apply; and any by-law enacted under any of the provisions of the said recited Acts or any of them, and in force in any municipality at the time of the passing of this Act, shall remain and continue in full force and effect until another by-law having relation to the same subject matter shall be enacted by the proper authority in that behalf, under the provisions of this Act.

By-laws enacted under their provisions to remain in force until others are passed.

CAP. XXVI.

An Act to amend the Law respecting the sale of Fermented or Spirituous Liquors.

[*Assented to* 10*th February,* 1876.]

Preamble.

WHEREAS it is expedient to amend the Act passed in the thirty-seventh year of Her Majesty's reign, intituled "An Act to amend and consolidate the law for the sale of Fermented or Spirituous Liquors:"

Therefore Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

Board of License Commissioners.

1. All powers and duties conferred and imposed upon the commissioners of police and municipal councils respectively, by virtue of the said recited Act, shall hereafter exclusively belong to and be exercised and performed by a board of license commissioners, except where express provision is otherwise made in this Act; and such board shall be composed of three persons to be appointed from time to time by the Lieutenant-Governor in Council for each city, county, union of counties, or electoral riding or division, as the Lieutenant-Governor in Council may think fit; and each of the commissioners shall cease to hold office on the thirty-first day of December in each year, but he may be reappointed; and the said office shall be honorary and without any remuneration.

Limitation of licenses.

2. The number of tavern licenses to be granted in the respective municipalities shall not in each year be in excess of the following limitations: in cities, towns and incorporated villages respectively, according to the following scale, that is to say, one for each full two hundred and fifty of the first one thousand of the population, and one for each full four hundred over one thousand of the population: but in no case shall this limit authorize any increase in any municipality in excess of the number of licenses therein issued for the year ending the first day of March next, unless from the future increase of the population the license commissioners shall think a larger number has become necessary, but not in any case exceeding the limit imposed by this Act;

(2.) And for the license year ending on the thirtieth day of April, one thousand eight hundred and seventy-seven, in cities the reduction need not be more than one-fourth of the number now under license for the year ending the first day of March next;

Copy of by-law limiting to be sent to

(3.) The council of every city, town, village or township municipality may, by by-law to be passed before the first day of March in any year, limit the number of tavern licenses to be issued therein for the then ensuing year, or for any future year until such by-law is altered or repealed: Provided such limit is under the limit imposed by this Act. The council shall cause a certified copy of such by-law to be sent immediately after the passing thereof to the license commissioners;

Commissioners.

(4.) In incorporated villages, being county towns, the limit may be five in number, and in the town of Clifton three hotels, near the Falls of Niagara, which may be licensed, may be excluded from the number which would otherwise be the maximum limit under this Act.

Manner of determining the population with a view to the number of licenses.

3. The number of the population which is to determine the number of licenses under this Act shall be according to the then last preceding census taken under the authority of the Dominion of Canada except where the commissioners shall be of opinion that, owing to a large increase of population since such census, an increased number of licensed taverns is needed for the convenience and accommodation of travellers: and in that case, if the commissioners so certify, and the council of the municipality memorialize the Lieutenant-Governor for such increase, the Lieutenant-Governor in Council may authorize a new census to be taken under the authority of a by-law of the municipality and at the expense of the municipality, and the limit for the number of licenses shall then be, one for each full two hundred and fifty of the population under one thousand, and one for each five hundred over one thousand of the population;

(2.) In case of the alteration or formation of any municipality subsequent to such census of the Dominion of Canada, the population of such municipality for the purposes of this Act may be ascertained by the said commissioners by reference to the enumeration on which such census took place, or by a new census taken under the provisions of this section;

(3.) Where, since the said Dominion census, a census has been taken in any municipality under the authority of the council having jurisdiction, the limit may be the same as in the case of a census taken under this section for the purposes of this Act.

Powers of the Commissioners under 37 V. c. 32, s. 9.

4. The license commissioners may by resolution regulate and determine the several matters provided for in the ninth section of the said recited Act, at any time before the first day of May in each year, but where special grounds are shown, may issue one or more licenses (within the authorized limit) after such day.

Accommodation of taverns.

5. In addition to the accommodation required by the said recited Act, each tavern or house of entertainment shall be shown, to the satisfaction of the license commissioners, to be a well-appointed and sufficient eating-house, with the appliances requisite for daily serving meals to travellers; and these requirements shall apply to all taverns or houses of entertainment, without any exception whatever, and continuously, for the whole period of the license.

City or town council may prescribe requirements for tavern.

6. The council of any city or town may, by by-law to be passed before the first day of March in any year, prescribe any requirements in addition to those under the said recited Act or this Act, as to accommodation to be possessed by taverns or houses of entertainment, as the council shall see fit; and the license commissioners upon receiving a copy of such by-law shall be bound to observe the provisions thereof; and such by-law shall continue in full force for such year and any future year until repealed.

Security to be given by tavern licensee.

7. Before any tavern license shall be granted, the person applying for the same shall enter into a bond to Her Majesty in the sum of two hundred dollars, with two good and sufficient sureties, to be approved of by the inspector, in the sum of one hundred dollars each, conditioned for the payment of all fines and penalties such person may be condemned to pay for any offence against any Act, by-law or provision in the nature of law, relative to taverns or houses of public entertainment then and thereafter to be in force, and to do, perform and observe all the requirements thereof, and to conform to all by-laws and regulations that may be established by competent authority in such behalf, and such bond shall be in the form expressed in Schedule A to this Act; and when executed shall be filed in the office of the inspector of licenses, to be by him transmitted to the office of the Provincial Treasurer.

Inspector of licenses, his appointment, powers and duty and security.

8. The inspector of licenses under the said recited Act shall be appointed by the Lieutenant-Governor in Council from time to time for each city, county, union of counties, electoral riding or division as the Lieutenant-Governor in Council may think fit; and such inspector shall possess all the powers and perform all the duties of the inspector for each township, town, incorporated village or city, under the provisions of the said recited Act, and each inspector so to be appointed by the Lieutenant-Governor in Council, shall also be and discharge the duties of issuer of licenses; and each inspector shall, before entering upon his duties, give such security as the Treasurer of the Province may require for the due performance of his said duties, and for the payment over of all sums of money received by him according to the provisions of this Act; and the salary of such inspector shall be fixed by the Order in Council under which he is appointed.

Report of Inspector under 37 V. c. 32, s. 13.

9. The report of the inspector, under the thirteenth section of the said recited Act, shall further state that the applicant is known to the inspector to be of good character and repute.

Shop licenses, to whom given.

10. A shop license shall only be granted to such person as shall have filed his application with the inspector on or before the first day of April in each year, and who shall have been reported by the inspector to the license commissioners to be a person of good character, and that his shop and premises are suitable for carrying on a reputable business, and who shall execute with sureties the bond in the form expressed in Schedule B to this Act.

Commissioners to determine on each application.

11. The report of the inspector shall only be for the information of the license commissioners, who shall exercise their own discretion on each application, and should there be no report to the effect aforesaid, then as the commissioners may think fit to determine.

Number of shop licenses limited; and licenses may be subjected to certain restrictions.

12. The council of every city, town, village or township municipality may, by by-law to be passed before the first day of March in any year, limit the number of shop licenses to be granted therein for the then ensuing year, and in such by-law, or by any other by-law passed before the said day, may require the shopkeeper to confine the business of his shop solely and exclusively to the keeping and selling of liquor, or may impose any restrictions upon the mode of carrying on such traffic as the council may think fit, and such by-law shall be binding upon the license commissioners, and any shop license to be issued shall conform to the provisions thereof; and such by-law shall remain in force for any future year until repealed.

Applicants residing in remote parts of counties.

13. Where the applicant for a tavern or shop license resides in a remote part of the county, or where for any other reason the license commissioners see fit, they may dispense with the report of the inspector, and act upon such information as may satisfy them in the premises.

Wholesale licenses.

14. A wholesale license shall be strictly limited to persons who carry on the business of selling by wholesale or in unbroken packages.

Manufacturers of native wines.

15. Manufacturers of native wines from grapes grown and produced in Ontario, and who sell such wines in quantities of not less than three gallons, or one dozen bottles of not less than three half-pints each at one time, are exempted from any duty under this Act, and are not required to obtain any license for so selling wines so manufactured.

Duties.

16. The following duties shall hereafter be payable, and shall be in lieu of all others, provincial or municipal, that is to say:

(1.) For each wholesale license the sum of one hundred and fifty dollars; each shop license in cities one hundred dollars; in towns, eighty dollars; and in other municipalities, sixty dollars. For each tavern license in cities, one hundred dollars; in towns, eighty dollars; and in other municipalities, sixty dollars;

(2.) The council of any municipality may by by-law require a larger duty to be paid for tavern or shop licenses therein, but not in excess of two hundred dollars in the whole, unless the by-law has been approved by the electors under the twenty-third section of the said recited Act;

(3.) In any municipality where, under the provisions of sections twenty-two and twenty-three of the said recited Act, and of any by-law in that behalf, a larger sum or duty in the whole than the foregoing is now payable for any shop or tavern license, such sum or duty shall be the lowest duty payable under this Act for any such license until altered by by-law of the municipality to be passed for the purpose, but in no case shall the duty be under the amount in this section specially prescribed.

Payment of duty to inspector and payment over by him.

17. The duty in all cases shall be paid to the inspector, and upon payment he shall issue the respective licenses authorized by the license commissioners, and it shall no longer be necessary that the treasurer of the municipality shall endorse or sign any receipt thereon; and the inspector shall daily, on receipt of any duty, pay the same into one of the chartered banks designated by the Treasurer of the Province to the credit of an account to be entitled "License Fund Account for the City [or County or Riding] of ," and all sums shall be drawn therefrom by cheque of the inspector, countersigned by two of the licensed commissioners.

Application of penalties where inspector is prosecutor.

18. Any penalty in money which, under the said recited Act, may be recovered in cases where any inspector is the prosecutor or complainant, shall be paid by the convicting justice or justices to the inspector, and paid in by him to the credit of the "License Fund Account."

Where the whole penalty and costs are not recovered.

(2.) In case the whole amount of the penalty and costs be not recovered, the amount recovered shall be applied, first, to the payment of the costs, and the balance shall be appropriated as hereinafter mentioned;

Where costs are not recovered.

(3.) In any case where the inspector has prosecuted and obtained a conviction, and has been unable to recover the amount of costs, the same shall be made good out of the said License Fund;

Indemnity of inspector where he fails to obtain a conviction.

(4.) In any case where the inspector has prosecuted and failed to obtain a conviction, he shall be indemnified against all costs out of the License Fund, should the justice or justices before whom the complaint is made certify that such officer had reasonable and probable cause for preferring such prosecution or complaint.

The duties, fines and penalties to form a license fund.

19. All sums received from duties on tavern, shop and wholesale licenses, and for fines and penalties, shall form the license fund of the city, county, union of counties, electoral riding or division respectively for which the board of license commissioners has been appointed, and the same shall be applied, under regulations of the Lieutenant-Governor in Council, for the payment of the salary and expenses of the inspector, and for the expenses of the office of the board and of officers, and otherwise in carrying the provisions of the law into effect, and the residue on the thirtieth day of June in each year, and at such other times as may be prescribed by the regulations of the Lieutenant-Governor in Council, shall be paid over,—one-third to the Treasurer of the Province, to and for the use of the Province, and the other two-thirds to the treasurer of the city, town, village, or township municipality in which the licensed premises are respectively situate; but in cases where any municipality by by-law requires a larger duty to be paid than the specific sum mentioned in the sixteenth section for any license. the whole of such excess shall be paid over to the treasurer of such municipality.

37 V. c. 32, s. 35, amended.

20. Section thirty-five of the said Act is hereby amended by inserting after the word "required," in the third line of the said section, the words "or who shall otherwise violate any other provision of this Act, in respect of which violation no other punishment is prescribed."

Evidence as to sale, &c., of liquor.

21. In proving the sale or disposal, gratuitous or otherwise, or consumption of liquor for the purpose of any proceeding relative to any offence under this Act, it shall not be necessary to show that any money actually passed, or any liquor was actually consumed, if the justice or justices or court hearing the case be satisfied that a transaction in the nature of a sale or other disposal actually took place, or that any consumption of liquor was about to take place, and proof of consumption or intended consumption of liquor on premises under license or in respect to which a license is required under this Act, by some person other than the occupier of said premises, shall be evidence that such liquor was sold to the person comsuming or being about to consume or carrying away the same, as against the holder of the license or the occupant of the said premises.

Sec. 50 amended.

22. Section fifty of the said Act is hereby amended by striking out the words "are sold" in the seventh line, and substituting therefor "are kept or had for the purpose of being sold, bartered or traded in."

License Commissioners may appoint officers to enforce this Act.

23. The license commissioners may with the sanction of the Lieutenant-Governor in Council appoint one or more officers to enforce the provisions of this Act, and especially for the prevention of traffic in liquor by unlicensed houses, and such officer or officers shall possess and discharge all the powers and duties of Provincial officers as if appointed under the fifty-fourth section of the said recited Act.

Time for issuing, and duration of licenses.

24. The year during which licenses are to be in force shall begin on the first day of May in each year, and end on the thirtieth day of April in the year following; and all licenses heretofore duly issued and expiring on the first day of March next shall be deemed to continue in effect till the thirtieth day of April, one thousand eight hundred and seventy-six: Provided always, that such licenses are duly renewed for that period by payment being made to the treasurer of the municipality, and to the issuer respectively, of additional duty equal to one-sixth of the duty, provincial and municipal, payable for the now current year of such licenses, and that from and after the passing of this Act no by-law or certificate of police commissioners in cities or of municipal councils in other municipalities for the granting of any license, shall have any force or effect in granting any other or future licenses, and except for the purpose of renewing the said licenses under this proviso, the powers and duties of all inspectors and issuers appointed under the said recited Act shall cease; and such renewal may be made by the endorsement of the issuer upon the license.

Districts not within the jurisdiction of municipal councils.

25. In such portion of judicial or territorial districts as are not within the jurisdiction of any municipal county, the Lieutenant-Governor in Council may appoint one or more persons for the issue of such number of tavern and shop licenses to such persons, for such places and periods, and upon such conditions as may be prescribed by Order in Council, to take effect from the first of June in each year:

(2.) For any such tavern or shop license, the duty payable shall be the sum of sixty dollars;

(3.) Any municipal corporation within any such district shall have the like authority in respect of taverns and shops therein, and the licenses therefor, as the like corporations in municipal counties possess under the provisions of this Act or the said recited Acts;

(4.) The provisions of this Act and of the said recited Act shall be in force and apply to all portions of such judicial or territorial districts.

Duty for vessels.

26. For vessels navigating the waters of this Province, the duty shall be one hundred dollars, and shall be payable to the inspector granting the license on behalf of Her Majesty for the public uses of the Province.

Temperance Act of 1864 not affected by this Act.

27. Nothing in the said recited Act or this Act shall be construed to affect or impair any of the provisions of "The Temperance Act of 1864" of the late Province of Canada, all of which, so far as the same are within the jurisdiction of this Legislature, are declared to be in full force and effect; and no tavern or shop license shall be issued or take effect within any county, city, town, incorporated village, or township in Ontario within which any by-law for prohibiting the sale of liquor under the said Act is in force;

(2.) The Lieutenant-Governor in Council may, notwithstanding any such by-law affects the whole of any county, nominate a board of commissioners of the number, and for the period mentioned in the first section of this Act, and also an inspector; and the said board and inspector shall have, discharge and exercise all such powers and duties respectively for preventing the sale, traffic or disposal of liquor contrary to said Act or this Act, as they respectively have or should perform under this Act;

(3.) The board of license commissioners and the inspector appointed under this Act shall exercise and discharge all their respective powers and duties for the enforcement of the provisions of the Temperance Act of 1864 (as well as of this Act, so far as the same shall apply), within the limits of any county, city, incorporated village or township in which any by-law under the said Temperance Act is in force;

(4.) All expenses which may be incurred in carrying the provisions of this section into effect shall be borne and paid in the proportion of one-third by the Province out of the Consolidated Revenue Fund, and two-thirds by the municipality within which any such by-law is in force, in cases where there is no license fund under this Act.

28. This Act shall take effect immediately on the passing thereof.

Time when the Act to take effect.

SCHEDULE A.

Know all men by these presents, that we, T. U., of V. W., of , and X. Y., of are held and firmly bound unto Her Majesty Queen Victoria, her heirs and successors, in the penal sum of four hundred dollars of good and lawful money of the Province of Canada, that is to say, the said T. U. in the sum of two hundred dollars, the said V. W. in the sum of one hundred dollars, and the said X. Y. in the sum of one hundred dollars of like good and lawful money, for payment of which well and truly to be made we bind ourselves and each of us, our heirs, executors and administrators, firmly by these presents;

Whereas the above bounden T. U. is about to obtain a license to keep a tavern or house of entertainment in the of the condition of this obligation is such, that if the said T. U. pays all fines and penalties which he may be condemned to pay for any offence against any statute or other provision having the force of law relative to any tavern or house of public entertainment now or hereafter to be in force, and does, performs and observes all the requirements thereof, and conforms to all rules and regulations that are or may be established by competent authority in such behalf; then this obligation shall be null and void, otherwise to remain in full force, virtue and effect.

In witness whereof, we have signed these presents with our hands, and sealed them with our seals, this day of A. D. one thousand eight hundred and seventy

T. U. [L. S.]
V. W. [L. S.]
X. Y. [L. S.]

Signed, sealed and delivered,
in the presence of us

SCHEDULE B.

Know all men by these presents, that we, T. U., of V. W., of , and X. Y., of are held and firmly bound unto Her Majesty Queen Victoria, her heirs and successors, in the penal sum of four hundred dollars of good and lawful money of the Province of Canada, that is to say, the said T. U. in the sum of two hundred dollars, the said V. W. in the sum of one hundred dollars, and the said X. Y. in the sum of one hundred dollars of like good and lawful money, for payment of which well and truly to be made we bind ourselves and each of us, our heirs, executors and administrators, firmly by these presents;

Whereas the above bounden T. U. is about to obtain a license to keep a shop wherein liquor may be sold by retail in the of the condition of this obligation is such, that if the said T. U. pays all fines and penalties which he may be condemned to pay for any offence against any statute or other provision having the force of law relative to any shop wherein liquor may be sold by retail now or hereafter to be in force, and does, performs and observes all the requirements thereof, and conforms to all rules and regulations that are or may be established by competent authority in such behalf; then this obligation shall be null and void, otherwise to remain in full force, virtue and effect.

In witness whereof, we have signed these presents with our hands, and sealed them with our seals, this day of A. D. one thousand eight hundred and seventy

T. U. [L. S.]
V. W. [L. S.]
X. Y. [L. S.]

Signed, sealed and delivered,
in the presence of us

No. 83.] **BILL** [1877.

An Act to amend the Acts respecting the Sale of Fermented or Spirituous Liquors.

WHEREAS it is expedient to amend the Acts respecting the Sale of Fermented or Spirituous Liquors, passed respectively in the thirty-seventh year of Her Majesty's reign, chapter thirty-two, and in the thirty-ninth year of Her Majesty's reign, chapter twenty-six:

Therefore Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Appointment of Inspectors and License Commissioners.

1. The appointment of Inspectors and License Commissioners may be under the authority of the Lieutenant-Governor.

37 V. c. 32, s. 8, amended.

2. Section eight of the said Act thirty-seventh Victoria, chapter thirty-two, is amended, by substituting for the words "any issuer of licenses without any certificate or any of the terms, conditions, or formalities required in other cases," the words "the Inspector of Licenses for any License District to or from any port in which the vessel sails, or at any port in which she calls."

37 V. c. 32, s. 12, amended.

3. The twelfth section of the said Act is hereby amended by striking out the words "excepting in townships," in the eleventh line, and by adding at the end of the section the words, "but this last provision shall not apply to taverns in townships, unless so provided by by-law of the Township Council."

When petition for license to be presented.

4. Every petition for a tavern license, which is to take effect on the first day of May in any year, shall be filed with the License Inspector for the District wherein it is to have effect on or before the first day of April next preceding.

License limited to person and place for which it was granted.

5. Subject to the provisions of the said Acts and of this Act as to removals and the transfer of licenses, every license for the sale of liquor shall be held to be a license only to the person therein named and for the premises therein described, and shall remain valid only so long as such person continues to be the occupant of the said premises and the true owner of the business there carried on.

37 V. c. 32, s. 17, amended.

6. The seventeenth section of the said Act, thirty-seventh Victoria, chapter thirty-two, is hereby repealed and the following substituted therefor:

Transfer of license.

"17. In case any person having lawfully obtained a license under this Act, before the expiration of his license dies, or sells, or by operation of law or otherwise assigns his said business, or removes from the house or place in respect of which the said license applies, his said license shall, *ipso facto*, become forfeited, and be absolutely null and void to all intents and purposes whatever,—unless such person, his assigns, or legal representatives, within one month after the death, assignment, or removal of the original holder of such license, or other period in the discretion of the License Commissioners of the District in which the said license has effect, obtains their written consent either for the continuance of the said business, or to transfer such license to any other person, and thereupon forthwith transfers the same to such other person, who, under such transfer, may exercise the rights granted by such license, subject to all the duties and obligations of the original holder thereof, until the expiration thereof, in the house or place for which such license was issued and to which it applies, but in no other house or place."

Limitation as to time.

New report necessary.

7. In every such case of transfer of a tavern license as in the last section is mentioned, the person in whose favour any such transfer is to be made shall first produce to the License Commissioners a report of the Inspector similar to that mentioned in the thirteenth section of the said Act, thirty-seventh Victoria, chapter thirty-two, as amended by the eleventh section of the Act thirty-ninth Victoria, chapter twenty-six.

37 V. c. 32, s. 18, amended.

8. The eighteenth section of the said Act, thirty-seventh Victoria, chapter thirty-two, is hereby amended by inserting therein after the word "conditions," in the sixteenth line of said section, the words "but no such permission shall be granted unless and until the person applying therefor has filed with the License Commissioners a report of the Inspector containing the information required by law in case of application for a license."

How licenses may be granted for premises where for any cause the license becomes void.

9. In case for any cause the license becomes void, or in case the term or interest of the holder of a license in the premises licensed ceases before the expiry of the license, or if such licensee absconds or abandons the premises, or becomes insolvent, the License Commissioners may grant a new license for the same premises, subject to the provisions of the said recited Acts, upon such terms as to the payment or refund by the new licensee of the duty for the unexpired period to the person entitled thereto under the original license, as to the License Commissioners may seem just.

37 V. c. 32, s. 20, amended.

10. The twentieth section of the said Act is hereby amended by striking out the words "under a penalty of twenty dollars besides costs" and substituting therefor the words "under the penalty in money imposed by the thirty-fifth section of this Act," and by inserting in the first line of such section after the word "retail" the words "and no Chemist or Druggist."

37 V. c. 32, s. 24, amended.

11. The twenty-fourth section of the said Act is hereby amended by adding thereto the following clause:— "And no person unless duly licensed shall by any sign or notice hold himself out to the public that he is so licensed and the use of any sign or notice for this purpose is hereby prohibited."

12. The twenty-seventh section of the said Act is hereby amended by adding thereto the words following: "But it shall be the duty of such chemist or druggist to record in a book, to be open to the inspection of the License Commissioners or Inspector, every sale or other disposal by him of liquor, and such record shall show as to every such sale or disposal, the time when, the person to whom, and the quantity sold, and the certificate, if any, of what medical practitioner, and in default of such sale or disposal being so placed on record, every such sale or disposal shall, *prima facie*, be held to be in contravention of the provisions contained in the said twenty-fourth and twenty-fifth sections of the said Act."

7 V. c. 32, s. 27 amended.

13. The twenty-eighth section of the said Act is hereby amended by inserting after the words "any such liquor," in the fourteenth line, the words "whether sold or not," and by adding at the end of the said section the words "except by the occupant or some member of his family or lodger in his house."

37 V. c. 32, s. 28, amended.

14. The twenty-ninth section is amended by adding after the words "wharf, dock, mooring, or station," the words "nor shall any liquor whether sold or not be permitted or allowed to be consumed in or upon any vessel departing from and returning to the same port or wharf, dock, mooring, or station, within the time hereinafter in this section mentioned, by any person during the hours prohibited by the preceding section for sale of the same except for medical purposes, as provided in the preceding section."

37 V. c. 32, s. 29, amended.

15. Sections thirty-two and thirty-three of the said Act are hereby amended by inserting after the words "he shall," in the second line of each of the said sections, the words "in addition to any other penalty to which he may be liable under this Act."

37 V. c. 32, ss. 32 and 33, amended.

16. Section thirty-five of the said Act is hereby amended by striking out all the words after the words "three calendar months," in the fourteenth line, and substituting the following provisions:—

37 V. c. 32. s. 35, amended.

"2. The number of such previous convictions shall be proveable by the production of a certificate under the hand of the convicting Justice, or of the Clerk of the Peace, without proof of his signature or official character, or by other satisfactory evidence.

Number of previous convictions, how proved.

35*a*. The proceedings upon any information for committing any offence against any of the provisions of this Act, in case of a previous conviction or convictions being charged, shall be as follows:

Proceedings thereon.

1. The Justices or Police Magistrate shall in the first instance inquire concerning such subsequent offence only, and if the accused be found guilty thereof, he shall then, and not before, be asked whether he was so previously convicted, as alleged in the information, and if he answers that he was so previously convicted, he may be sentenced accordingly; but if he denies that he was so previously convicted, or stands mute of malice, or does not answer directly to such question the Justices or

Police Magistrate shall then inquire concerning such previous conviction or convictions.

Previous convictions need not be charged.

2. A conviction may in any case be had as for a first offence notwithstanding that there may have been a prior conviction or convictions for the same or any other offence.

Offences on same day.

3. Convictions for several offences may be made under this section, although such offences may have been committed on the same day: but the increased penalty or punishment hereinbefore imposed shall only be recoverable in the case of offences committed on different days; and after information laid for a first offence.

In case of a second or subsequent conviction becoming irregular by quashing of a first or previous conviction,

Justices or Police Magistrate may amend;

And amended conviction valid.

4. In the event of any conviction for any second or subsequent offence becoming void or defective, after the making thereof, by reason of any previous conviction being set aside, quashed, or otherwise rendered void, the Justices or Police Magistrate by whom such second or subsequent conviction was made, may by warrant under his or their hand summon the person convicted to appear at a time and place to be named in such warrant, and may thereupon, upon proof of the due services of such warrant if such person fails to appear or on his appearance, amend such second or subsequent conviction, and adjudge such penalty or punishment as might have been adjudged had such previous conviction never existed, and such amended conviction shall thereupon be held valid to all intents and purposes, as if it had been made in the first instance.

Second offence: meaning of.

Third offence.

5. In case any person who has been convicted of a contravention of any provision of any of the sections of this Act, numbered twenty-four, twenty-five, twenty-six, twenty-seven, or twenty-nine, or any section for the contravention of which a penalty or punishment is prescribed by section thirty-five, is afterwards convicted of an offence against any provision of any of the said sections, such conviction shall be deemed a conviction for a second offence, within the meaning of section thirty-five, and may be dealt with and punished accordingly, although the two convictions may have been under different sections; and in case any such person is afterwards again convicted of a contravention of any provision of any of the said sections, whether similar or not to the previous offences, such conviction shall in like manner be deemed a conviction for a third offence, within the meaning of section thirty-five, and may be dealt with and punished accordingly.

7 V. c. s 32, 36, amended.

17. Section thirty-six of the said Act is hereby amended by striking out the words "complaint made on oath," in the fourth line, and substituting the word "information," and by adding to the section the words "and shall also be liable to the penalties by the preceding section prescribed."

37 V. c. 32, s. 37, amended.

18. Notwithstanding anything in the thirty-seventh section of the said Act contained the powers thereby conferred upon the Judge of any County Court shall be exerciseable in the case of any person who has been convicted on three several occasions for any violation of any of the provisions of the Acts hereby amended, or of this Act, whether the offences in respect of which such convictions were made may have been the same or different in their character, so long as such convictions have been offences committed on different days.

Procedure under ss. 37-38.

2. The complaint in the said section and section thirty-eight mentioned, may be by a short petition to the Judge entitled "In the County Court of the County of———, and "In the matter of the license granted to —— —— (*naming the defendant*)," or, "In the matter of —— ——, Inspector of Licenses for the —— Riding of the County of ——," praying for the revocation of the said license, or the removal of the Inspector, as the case may be, and upon hearing the evidence adduced, or upon default of appearance of the prosecutor or defendant, the Judge may make such order as he deems just, with or without costs to be paid by the prosecutor or defendant.

37 V. c. 32, s. 41, amended.

19. Section forty-one of the said Act is hereby amended by inserting the word "suspend" after the word "remit" in the third line.

37 V. c. 32, s. 44, amended.

20. The following new section is substituted for section forty-four of the said Act:

Certain prosecutions to be before two or more justices or police magistrate.

44. All prosecutions for the punishment of any offence against any of the provisions of sections twenty, twenty-four, twenty-five, twenty-eight, twenty-nine, thirty, thirty-five, or thirty-six of this Act, or any section for the contravention of which a penalty or punishment is prescribed by section thirty-five, whether the prosecution is for the recovery of a penalty or for punishment by imprisonment, may take place before any two or more of Her Majesty's Justices of the Peace having jurisdiction in the County or District in which the offence is committed, or in Cities and Towns where there is a Police Magistrate, before the Police Magistrate of the City or Town, who, it is hereby declared, shall have authority to hear and determine any case in which the offence is alleged to have been committed within the County (for judicial purposes) wherein such City or Town is situate, in a summary manner, according to the provisions and after the forms contained in and appended to the Act of Parliament of Canada, entitled An Act respecting the duties of Justices of The Peace out of Sessions, in relation to Summary Convictions and Orders—which Act, and the Acts already passed, or which may be hereafter passed, amending the same, shall be held to apply to all prosecutions and proceedings under this Act, so far as consistent with this Act.

Evidence to b taken in writing.

2. The Justices or Police Magistrate shall in all cases reduce to writing the evidence of the witnesses examined before them, or him, and shall read the same over to such witnesses, who shall sign the same.

Form of Information.

21. All informations or complaints for the prosecution of any offence against any of the provisions of this Act, or of the Acts hereby amended, shall be laid or made in writing, and within thirty days after the commission of the offence, or after the cause of action arose, and not afterwards, before any one of such Justices or before such Police Magistrate (as the case may be), but may be made without any oath or affirmation to the truth thereof, and the same may be according to the form of Schedule A to this Act or to the like effect.

Information may be amended.

2. In the event of any variance between the information and evidence adduced in support thereof, the Justices or Police Magistrate may amend or alter such information, and may substitute for the offence charged therein, any other offence against the provisions of the said recited Acts, or this Act; but if it appears that the defendant has been materially misled by such variance, the said Justices or Police Magistrate shall thereupon adjourn the hearing of the case to some future day, unless the defendant waives such adjournment.

Right of appeal.

3. In all cases of prosecution for any offence against any of the provisions of the said recited Acts, or of this Act, for which any penalty or punishment is prescribed by the thirty-fifth section of the first recited Act, the conviction or order of the said Justices or Police Magistrate (as the case may be,) shall be final and conclusive, and against such conviction or order there shall be no appeal to the Court of General Sessions of the Peace, or to any other Court except as hereinafter mentioned, any statute, usage, custom, or law to the contrary notwithstanding.

Appeals.

4. An appeal shall lie from a conviction for any offence for which a penalty or punishment is prescribed by the thirty-fifth section of the first recited Act to the Judge of the County Court of the County in which the conviction is made, sitting in Chambers, without a jury, provided a notice in writing of such appeal is given to the prosecutor or complainant within five days after the date of the said conviction; subject to the following provisions.

Appellant to enter into a recognizance.

5. The person convicted, in case he is in custody, shall either remain in custody until the hearing of such appeal before the said Judge, or (where the penalty of imprisonment with or without hard labour is adjudged) shall enter into a recognizance with two sufficient sureties, in the sum of two hundred dollars each, before the convicting Justices or Police Magistrate, conditioned personally to appear before the said Judge, and to try such appeal and abide his judgment thereupon, and to pay such costs as he may order, and in case the appeal be against a conviction whereby only a penalty or sum of money is adjudged to be paid, the appellant may, (although the order directs imprisonment in default of payment) instead of remaining in custody as aforesaid, give such recognizance as aforesaid, or may deposit, with the said Justices or Police Magistrate convicting, the amount of the penalty and costs, and a further sum of twenty-five dollars to answer the respondent's costs of appeal.

or deposit amount of penalty and osts.

ustices to ansmit depositions to lerk of ounty Court.

6. Upon such recognizance being given or deposit made, the said Justices or Police Magistrate shall liberate such person if in custody, and shall forthwith deliver or transmit by registered letter post-paid, the depositions and papers in the case, with the recognizance or deposit as the case may be, to the Clerk of the County Court of the County wherein such conviction was had.

7. The practice and procedure upon such appeal, and all the proceedings thereon, shall thenceforth be governed by the Act respecting procedure on appeals to the Judge of a County Court from Summary Convictions, so far as the same is not inconsistent with this Act.

38 V. c. 11, to apply.

22. In describing offences respecting the sale or other disposal of liquor, or the keeping, or the consumption of liquor in any information, summons, conviction, warrant, or proceeding under this Act or the Acts hereby amended, it shall be sufficient to state the sale, disposal, keeping, or consumption of liquor simply, without stating the name or kind of such liquor, or the price thereof, or any person to whom it was sold or disposed of, or by whom it was consumed; and it shall not be necessary to state the quantity of liquor so sold, disposed of, kept, or consumed, except in the case of offences where the quantity is essential, and then it shall be sufficient to allege the sale or disposal of more or less than such quantity.

Conviction not void for certain defects;

23. No conviction or warrant enforcing the same or other process or proceeding under the said recited Acts or this Act shall be held insufficient or invalid by reason of any variance between the information or conviction, or by reason of any other defect in form or substance, provided it can be understood from such conviction warrant, process or proceeding that the same was made for an offence against some provision of the said Acts, within the jurisdiction of the Justices or Police Magistrate who made or signed the same, and provided there is evidence to prove such offence, and it can be understood from such conviction, warrant, or process, that the appropriate penalty or punishment for such offence was intended to be thereby adjudged.

May be amended.

2. Upon any application to quash such conviction, or warrant enforcing the same, or other process or proceeding whether in appeal or upon *habeas corpus*, or by way of *certiorari* or otherwise, the Court or Judge to which such appeal is made or to which such application has been made upon *habeas corpus* or by way of *certiorari*, or otherwise, shall dispose of such appeal or application upon the merits, notwithstanding any such variance or defect as aforesaid, and in all cases where it appears that the merits have been tried, and that the conviction, warrant, process, or proceeding is sufficient and valid under this section or otherwise, such conviction, warrant, process, or proceeding shall be affirmed, or shall not be quashed (as the case may be), and such Court or Judge may, in any case, amend the same if necessary, and any conviction, warrant, process, or proceeding so affirmed or affirmed and amended, shall be enforced in the same manner as convictions affirmed on appeal, and the costs thereof shall be recoverable as if originally awarded.

37 V. c. 32, 46, amended.

24. The forty-sixth section of the said Act is hereby amended by substituting for the words "contained in" the words "for which any penalty or punishment is prescribed by."

37 V. c. 32, 52, amended

25. The fifty-second section is amended by adding thereto the words "and proof of the fact of such sale, barter or traffic, or other act, matter or thing, by any person in the employ of such occupant or who is suffered to be or remain in or upon the premises of such occupant, or to act in any way for such occupant, shall be conclusive evidence that such sale, barter or traffic, or other act, matter or thing, took place with the authority and by the direction of such occupant."

37 V. c. 32, s. 56, repealed.

26. The fifty-sixth section of the said Act is hereby repealed, and the following substituted therefor:

Right of search granted.

56. Any Officer, Policeman or Constable, or Inspector of Licenses may, for the purpose of preventing or detecting the violation of any of the provisions of this Act which it is his duty to enforce, at any time enter into any and every part of any inn, tavern, or other house or place of public entertainment, shop, warehouse or other place wherein refreshments or liquors are sold, or reputed to be sold, whether under license or not, and may make searches in every part thereof, and of the premises connected therewith, as he may think necessary for the purpose aforesaid ;

Penalty for refusing to admit officer.

2. Every person being therein, or having charge thereof, who refuses or fails to admit such Officer, Policeman, or Constable, or Inspector demanding to enter in pursuance of this section in the execution of his duty, or who obstructs or attempts to obstruct the entry of such Officer, Policeman, Constable, or Inspector, or any such searches as aforesaid, shall be liable to the penalties and punishments prescribed by section thirty-five of this Act;

Search warrant may be granted.

Unlawful keeping of liquor to be evidence of illegal dealings therein.

3. Any Justice of the Peace or Police Magistrate, if satisfied by information on the oath of any such Officer, Policeman, Constable or Inspector, that there is reasonable ground for belief that any spirituous or fermented liquor is being kept for sale or disposal contrary to the provisions of this Act in any unlicensed house or place within the jurisdiction of the Justice or Magistrate may, in his discretion, grant a warrant under his hand, by virtue whereof it shall be lawful for the person named in such warrant at any time or times within ten days from the date thereof to enter, and if need be, by force, the place named in the warrant, and every part thereof, or of the premises connected therewith, and examine the same and search for liquor therein; and for this purpose may, with such assistance as he may deem expedient, break open any door, lock, or fastening of such premises, or any part thereof, or of any closet, cupboard, box or other article likely to contain any such liquor; and in the event of any liquor being so found unlawfully kept on the said premises, the occupant thereof shall, until the contrary is proved, be deemed to have kept such liquor for the purpose of sale contrary to the provisions of the twenty-fifth section of this Act.

39 V. c. 26, s. 16 (2), amended.

27. The second sub-section of section sixteen of the Act thirty-ninth Victoria, chapter twenty-six, is amended, by inserting after the word "by-law," in the first line, the words, "to be passed before the first day of March in any year," and by adding to the same sub-section the words "such by-law shall take effect from the passing thereof, and continue in force for any future year until repealed."

39 V. c. 26, s. 17, repealed.

28. The following new section is substituted for section seventeen of the said Act, thirty-ninth Victoria, chapter twenty-six, which is hereby repealed :—

Payment of duties.

"17. The duty shall be paid by the applicant into the Bank designated by the Provincial Treasurer, to the credit of the License Fund Account for the License District, and upon production by the applicant to the Inspector, of the requisite certificate of the License Commissioners, together with a receipt showing payment in full of the duty to the credit of the said License Fund Account, as aforesaid, the Inspector may issue the license authorized by the Commissioners.

Cheques upon the License Fund Account.

"2. Cheques upon the License Fund Account shall be drawn by the Inspector, and countersigned by the Chairman, or any two of the License Commissioners, subject to the regulations of the Lieutenant-Governor in Council.

Fines under this Act to form part of the License Fund.

"3. All fines arising from prosecutions under this Act before the Police Magistrate at the Town of Clifton shall form part of the License Fund of the Municipality notwithstanding the provisions of the Act constituting fines a special fund for the payment of Provincial Police."

Regulations to wholesale licenses.

29. Wholesale licenses may be issued at any time during the year after the License Commissioners of the District in which such license is to have effect, shall have directed the same to be granted, and any wholesale license so issued shall be and become void in case the holder thereof, at any time during the currency of the said license, shall directly or indirectly, or by or with any partner, clerk, agent or other person, carry on upon the premises to which such license applies the business of a retail dealer in any other goods, wares or merchandize.

Prosecutions where "Temperance Act" is in force.

30. The sale of liquor without license in any municipality where "The Temperance Act of 1864" is in force shall nevertheless be a contravention of sections twenty-four and twenty-five of the said Act, thirty-seventh Victoria, chapter thirty-two; and the several provisions of the said recited Acts, and of this Act, shall have full force and effect in every such municipality except in so far as such provisions relate to granting licenses for the sale of liquor by retail.

Wholesale licenses.

2. A wholesale license to be obtained under and subject to the provisions of the said recited Acts, and of this Act, shall be necessary, in order to authorize or make lawful any sale of liquor in the quantities allowed under the provisions of "The Temperance Act of 1864."

License, how proved.

31. In any prosecution or proceeding under the Acts hereby amended, or under this Act, in which proof is required respecting any license, a certificate under the hand of the License Inspector of the District shall be *prima facie* proof of the existence of a license, and of the person to whom the same was granted or transferred; and the production of such certificate shall be sufficient *prima facie* evidence of the facts therein stated and of the authority of the License Inspector, without any proof of his appointment or signature.

Production of books, etc., may be ordered.

32. Any person summoned as a party to, or as a witness in any proceeding under the Acts in force respecting the sale of liquor, may, by the summons, be required to produce, at the time and place appointed for his attendance, all books and papers, accounts, deeds and other documents in his possession, custody or control, relating to any matter connected with the said proceeding, saving all just exceptions to such production: and shall be liable to the same penalties for non-production of such books, papers or documents, as he would incur by refusal or neglect to attend, pursuant to such summons, or to be sworn or to answer any question touching the case.

Extension of licenses.

33. In any case where the License Commissioners of any License District may not think fit, or are unable to grant a new license to any applicant who has been licensed during the preceding twelve months, or any part thereof, they may, nevertheless, by resolution, provide for extending the duration of the existing license for any specified period of the year, not exceeding three months at their discretion, upon payment by the applicant, of a sum not exceeding the proportionate part of the duty payable for such license for the next ensuing license year; and such license, when a certificate of the extension aforesaid has been endorsed thereon, under the hand of the Inspector of Licenses for the License District, shall remain valid for the period specified in the resolution of the Commissioners, and no longer: but this provision shall not be construed to confer on the License Commissioners any authority to exceed the limit prescribed by the said recited Acts as to the number of tavern licenses to be granted in any year, except in cities, where the License Commissioners may in their discretion, having regard to the particular circumstances of the city, and of each application, grant further tavern licenses, but within the number of such licenses granted for the year ending on the thirteenth day of April, 1877; and except in a locality where from its being largely resorted to in summer by visitors, the License Commissioners may, should they think fit, grant one additional tavern license, but not to extend beyond six months, commencing on the first day of May in each year.

icense districts in udicial or erritorial istricts.

34. The Lieutenant-Governor in Council may declare any portion of a Judicial or Territorial District which is not within the jurisdiction of a Municipal County, a License District, for the purposes of the said recited Acts, and of this Act, and may appoint therefor a Board of License Commissioners and one or more Inspectors.

ppeal from tipendiary agistrates.

In any License District so formed an appeal shall lie from any decision of the Stipendiary Magistrate in any prosecution or proceeding under the said recited Acts, to the Judge of such District, or to any County Judge to whom an appeal may lie in other matters in such District.

V. c. 26, 27 amended.

35. Section twenty-seven of the said Act passed in the thirty-ninth year of Her Majesty's reign and chaptered twenty-six, is hereby amended by adding as sub-section four of said section, the following:—" And the proportion of such expenses payable by the Municipality shall become due and payable in one month after the same has been audited by the Provincial Treasurer, and after the Board of License Commissioners have requested payment of the same by notice in writing to the Clerk of the Municipality."

Forms in th Schedules.

36. The forms in the Schedules to this Act, or any forms to the like effect, shall be sufficient in the cases thereby respectively provided for, and when no forms are prescribed by the Schedules new ones may be framed according to those appended to The Act of Canada respecting the duties of Justices of the Peace out of Sessions in relation to Summary Convictions and Orders, or The Act of Ontario respecting procedure on appeals to the Judge of the County Court from Summary Convictions—or any Acts amending the same respectively—such forms being made short and concise in the mode indicated in the Schedules to this Act which are to serve as guides so far as the particular case may allow.

39 V. c. 26, s. 15 amended.

37. Section fifteen of the said Act thirty-ninth Victoria, chapter twenty-six, is amended by substituting for the words " three gallons " therein the words " one gallon," and for the words " one dozen bottles " the words " two bottles."

Licenses Com missioners of Inspectors who are Justices of the Peace prohibited from trying certai complaints.

38. No License Commissioner or Inspector of Licenses who is a Justice of the Peace, shall try or adjudicate upon any complaint for an infraction of any of the provisions of this Act or the said recited Acts committed within the limits of the License District for which he is a Commissioner or Inspector; but this section shall not be construed to apply to a Judge, or Junior Judge or Deputy Judge of a county.

SCHEDULES TO ACT.

SCHEDULE A.

General Form of Information.

(*See Act of* 1874, *section* 44.)

Ontario,
County of York,
To Wit:

The Information of A. B. of the Township of York, in the County of York, License Inspector, laid before me C. D., Police Magistrate, in and for the City of Toronto, [*or* one of Her Majesty's Justices of the Peace, in and for the County of York,] the day of in the year of our Lord, one thousand eight hundred and .

The said Informant says, he is informed and believes that X. Y. on the day of in the year of our Lord, one thousand eight hundred and , at the Township of York, in the County of York, unlawfully did sell liquor without the license therefor by law required [*or as the case may be—See subjoined forms*].

A. B.

Laid and signed before me the
day and year, and at the place
first above mentioned.
C. D.

SCHEDULE B.

Forms for Describing Offences.

1. Sale without license. Act of 1874, sec. 24, see form above.

2. Keeping liquor without license. Act of 1874, sec. 25.

"That X. Y. on at unlawfully did keep liquor for the purpose of sale, barter, and traffic therein, without the license therefor by law required."

3. Sale of liquor in licensed premises during prohibited hours. Act of 1875, secs. 28 and 34.

"That X. Y. on at in his premises [*or* on, *or* out of, *or* from, his premises] being a place where liquor may be sold, unlawfully did sell [*or* dispose of] liquor during the time prohibited by the Liquor Licenses Acts (*or* by by-law of the Municipal Council of *or* of the License Commissioner for the District of *as the case may be*,) for the sale of the same, without any requisition for medical purposes as required by said Acts being produced by the vendee or his agent.

4. Allowing liquor to be drunk on licensed premises in prohibited hours. Act of 1874, secs. 28 and 34.

"That X. Y. on at in his premises, being a place where liquor may be [*or* is] sold, by retail [*or* wholesale] unlawfully did allow [*or* permit] liquor to be drunk in such place during the time prohibited by the Liquor Licenses Acts for the sale of the same by a person other than the occupant, or some member of his family, or a lodger in his house."

5. Sale of less than three half-pints under shop license. Act of 1874, sec. 3.

"That X. Y. having a shop license on at unlawfully did sell liquor in less quantity than three half-pints."

6. Neglecting to exhibit notice of license. Act of 1874, sec. 19.

"That X. Y. being the keeper of a tavern [*or* inn *or* house *or* place of public entertainment] in respect of which a tavern license has duly issued and is in force on at unlawfully did not exhibit over the door of such tavern [*or* inn, &c.,] in large letters the words, 'Licensed to sell wine, beer, and other spirituous or fermented liquors,' as required by the Liquor Licenses Acts."

7. Neglecting to keep license exposed. Act of 1874, sec. 8.

"That X. Y. having a license by wholesale [*or* a shop, *or* a tavern, *or* a vessel license] on at unlawfully and wilfully or negligently omitted to expose the said license in his warehouse [*or* shop, *or* in the bar-room of his tavern, *or* in the bar-saloon, *or* bar-cabin of his vessel," *as the case may be*].

8. Allowing liquor to be consumed in shop. Act of 1874, 20.

"That X. Y. having a shop license on at unlawfully did allow liquor to be sold by him, (*or* in his possession), and for the sale of which a license is required, to be consumed within his shop [*or* within the building of which his shop forms part *or,* within a building which communicates by any entrance with his shop], by a purchaser of such liquor [*or,* by a person not usually resident within the building of which such shop forms a part]."

9. Allowing liquor to be consumed on premises under wholesale license. Act of 1874, sec. 21.

"That X. Y. having a license by wholesale, on at unlawfully did allow liquor sold by him [*or* in his possession for sale] and for the sale of which such license is required, to be consumed within his ware-house, [or shop, *or* within a building which forms part of *or* is appurtenant to *or* which communicates by an entrance with a ware-house [*or* shop, *or* premises] wherein an article to be sold [*or* disposed of] under such license, is sold by retail, [*or* wherein there is kept a broken package of an article for sale under such license]."

10. Sale under wholesale licenses in less than wholesale quantities. Act of 1874, secs. 4 and 26.

"That X. Y. having a license to sell by wholesale on at unlawfully did sell liquor in less quantity than five gallons [*or,* than one dozen bottles of three half-pints each, *or* then two dozen bottles of three-fourths of a pint each]."

11. Illegal sale by druggists. Act of 1874, sec. 27; Act of 1877, sec. 12.

"That X. Y. being a chemist [*or* druggist] on at did unlawfully sell liquor for other than strictly medicinal purposes, [*or* sell liquor in packages of more than twelve ounces at one time without a certificate from any registered medical practitioner, *or* sell liquor without recording the same] as required by the Liquor Licenses Acts."

12. Illegal sale under vessel license. Act of 1874, sec. 29. Act of 1877, sec. 14.

"That X. Y. being authorized to sell liquor on a vessel called the 'Spartan' on at unlawfully did sell [*or* dispose of] liquor to be consumed by a person other than a passenger on such vessel while in port, [*or,* unlawfully did allow liquor to be consumed on such vessel during the time prohibited by the Liquor Licenses Acts for the sale of the same without any requisition for medical purposes as required by said Acts]."

13. Keeping a disorderly house. Act of 1874, sec. 36.

"That X. Y. being the keeper of a tavern [*or* ale-house, *or* beer-house, *or* house of public entertainment], situate in the City [*or* Town, *or* Village, *or* Township] of in the County of on in his said tavern, [*or* house] unlawfully did sanction [*or* allow] gambling, [or riotous, *or* disorderly conduct] in his said tavern [*or* house]."

14. Compromising or compounding a prosecution. Act of 1874, sec. 39.

"That X. Y. having violated a provision of the Liquor Licenses Acts, on at unlawfully did compromise, compound *or* settle [*or* offer *or* attempt to compromise, compound *or* settle], the offence with A. B., with the view of preventing any complaint being made in respect thereof [*or* with the view of getting rid of *or* of stopping, *or* of having the complaint made in respect thereof dismissed, *as the case may be*]."

15. Being concerned in compromising prosecution. Act of 1874, sec. 40.

"That X. Y. on at unlawfully was concerned in (*or* a party to) a compromise [*or* a composition *or* a settlement] of an offence committed by O. P., against a provision of the Liquor Licenses Acts."

16. Tampering with a witness. Act of 1874, sec. 42.

"That X. Y. on a certain prosecution under the Liquor Licenses Acts, on at unlawfully did tamper with O. P., a witness in such prosecution before [*or* after] he was summoned [*or* appeared] as such witness on a trial [*or* proceeding] under the said Acts, [or unlawfully did induce, *or* attempt to induce O. P., a witness in such prosecution, to absent himself, *or* to swear falsely]."

17. Officer refusing to prosecute. Act of 1874. secs. 55 and 57.

"That X. Y. being a police officer or constable, or Inspector of Licenses in and for the Township of York in the County of York, knowing that O. P. had on at committed an offence against a provision of 'the Liquor Licenses Acts,' unlawfully and wilfully did and still doth neglect to prosecute the said O. P., for his said offence."

18. Refusing to admit policeman. Act of 1877, sec. 26.

"That X. Y. on the at being in (*or* having charge of) the premises of O. P., being a place where liquor is sold [*or* reputed to be sold], unlawfully did refuse [*or* fail] to admit [*or* obstruct *or* attempt to obstruct] E. F., an officer demanding to enter in the execution of his duty [*or* obstruct *or* attempt to obstruct E. F., an officer making searches in said premises, and in the premises connected with such place]."

19. Harbouring constables on duty. Act of 1874, sec. 58; Act of 1877, sec. 26.

"That X. Y. being licensed to sell liquor at on unlawfully and knowingly did harbour [*or* entertain *or* suffer to abide and remain on his premises] O. P., a constable belonging to a police force, during part of the time appointed for his being on duty, and not for the purpose of quelling a disturbance or restoring order, or executing his duty."

SCHEDULE C.

FORM OF INFORMATION FOR SECOND, THIRD, OR FOURTH, OFFENCE.

ONTARIO.
County of York,
To Wit:

THE INFORMATION of A. B., of &c., License Inspector, laid before me C. D., Police Magistrate in and for the City of Toronto, [*or* one of Her Majesty's Justices of the Peace in and for the County of York,] the day of in the year of our Lord, one thousand eight hundred and .

The said Informant says he is informed, and believes that X. Y., on at (describe last offence).

And further that the said X. Y. was previously, to wit on the 15th day of December, A.D. 1876, at the City of Toronto, before C. D., Police Magistrate in and for the City of Toronto [*or* at the Township of York, in the County of York before E. F., and G.H., two of Her Majesty's Justices of the Peace for the County of York], duly convicted of having on the 30th day of November, 1876, at the Village of Yorkville, in the County of York, unlawfully sold liquor without the license therefor required by law [*or as the case may be*].

And further, that the said X. Y. was previously, to wit on the 28th day of November, A.D. 1876, at the Township of Vaughan, in the County of York, before &c. [*as in preceding paragraph*], again duly convicted of having on the 10th day of November, A.D. 1876, at the Township of Etobicoke in the County of York, having a shop license, unlawfully allowed liquor to be consumed within a building which communicates by an entrance with his shop, by a person not usually resident within the building of which such shop forms a part (*or as the case may be*).

And further, that the said X. Y. was previously, to wit on the 30th day of October, A.D. 1876, at the Village of Newmarket, in the County of York before &c., (*see above*) again duly convicted of having on the 25th day of September A.D., 1876, at the Village of Yorkville in the County of York, (being in charge of the premises of O. P., a place where liquor was reputed to be sold,) unlawfully failed to admit E. F., an officer demanding to enter in the execution of his duty.

And the Informant says the offence hereinbefore firstly charged against the said X. Y., is his fourth offence against the Liquor Licenses Acts.

A. B.

Laid and signed before me the day and year, and at the place first above mentioned.
C. D.

SCHEDULE D.

SUMMONS TO WITNESS.

ONTARIO,
County of York,
TO WIT:

To J. K. of the City of Toronto, in the County of *York*.

Whereas, information has been laid before me, C. D. one of Her Majesty's Justices of the Peace in and for the County of York, *or* Police Magistrate for the City of Toronto, that

X. Y., being a druggist, on the 10th day of January, A. D. 1877, at the Township of Vaughan, in the County of York, unlawfully did sell liquor for other than strictly medicinal purposes, and it hath been made to appear to me that you are likely to give material evidence on behalf of the prosecutor in this behalf.

These are to require you under pain of imprisonment in the Common Gaol personally to be and appear on Tuesday, the sixteenth day of January, A. D, 1877, at ten o'clock in the forenoon, at the Town Hall, in the Village of Richmond Hill, before me or such Justice or Justices of the Peace as may then be there to testify what you shall know in the premises [and also to bring with you and there and then to produce and all every invoices, day books, cash books, or ledgers and receipts, promissory notes, or other security relating to the purchase, or sale of liquor by said X. Y., and all other books and papers, accounts, deeds, and other documents in your possession, custody or control, relating to any matter connected with the said prosecution].

Given under my hand and seal this 12th day of January, A. D. 1876, at the Village of Richmond Hill, in the County of York.

C. D.
J. P. (L. S.)

SCHEDULE E.

Form of Conviction for First Offence.

Ontario.
County of York,
To Wit:

Be it remembered that on the sixth day of January, in the year of our Lord one thousand eight hundred and seventy-seven, at the City of Toronto, in the said County of York, X. Y. is convicted before me C. D., Police Magistrate in and for the City of Toronto (*or* before us E. F. and G. H., two of Her Majesty's Justices of the Peace, in and for the said County), for that he the said X. Y., on the second day of January, in the year of our Lord one thousand eight hundred and seventy-seven, at the Township of York, in the said County, in his premises, being a place where liquor may be sold, unlawfully did sell liquor during the time prohibited by the Liquor Licenses Acts, for the sale of the same without any requisition for medicinal purposes as required by said Acts, being produced by the vendee or his agent, (*or as the case may be,*) (A., B., being the Informant) and I (*or* we) adjudge the said X. Y., for his said offence to forfeit and pay the sum of twenty dollars, to be paid and applied according to law, and also to pay to the said A. B., the sum of six dollars for his costs in this behalf, and if the said several sums be not paid forthwith, then* I (*or* we) order the said sums to be levied by distress and sale of the goods and chattels of the said X. Y., and in default of sufficient distress in that behalf* [*or* when the issuing of a distress warrant would be ruinous to the defendant and his family, or it appears that he has no goods whereon to levy a distress, then instead of the words between the asterisks**say "inasmuch as it hath now been made to appear to me (*or* us) that the issuing of a warrant of distress in this behalf would be ruinous to the said X. Y. and his family," *or* "that the said X. Y. hath no goods or chattels whereon to levy the said several sums by distress"]. I (*or* we) adjudge the said X. Y. to be imprisoned in the common gaol for the County of York, at Toronto in the said County, and there to be kept at hard labour for the space of fifteen days, unless the said sums and the costs and charges of conveying the said X. Y. to the said common gaol, shall be sooner paid.

Given under my hand and seal [*or* our hands and seals] the day and year first above mentioned, at the City of Toronto, in the County aforesaid.

C.D., (L. S.)
Police Magistrate,
or E. F.,
J. P. (L. S.)
G. H.,
J. P. (L. S.)

SCHEDULE F.

FORM OF CONVICTION FOR A THIRD OFFENCE.

ONTARIO,
County of York,
To Wit:

BE IT REMEMBERED that on the twenty-second day of January, in the year of our Lord, one thousand eight hundred and seventy-seven in the City of Toronto in the said County, X. Y. is convicted before the undersigned C. D. Police Magistrate, in and for the City of Toronto, in said County, [*or* C. D. and E. F. two of Her Majesty's Justices of the Peace, in and for the said County,] for that he, the said X. Y. on the thirtieth day of December, in the year of our Lord one thousand eight hundred and seventy-six, at the City of Toronto [*or* Township of Scarboro], in said County (*as the case may be*), having violated a provision of the Liquor Licenses Acts, unlawfully did attempt to settle the offence with A. B., with the view of having the complaint made in respect thereof dismissed. And it appearing to me [*or* us] that the said X. Y. was previously, to wit, on the 15th day of December A. D. 1876, at the City of Toronto, before &c., duly convicted of having on the 30th day of November, A. D. 1876, at the Village of Yorkville, unlawfully sold liquor without the license therefor by law required. And it also appearing to me [*or* us], that the said X. Y. was previously, to wit, on the 28th day of November, A. D. 1876, at the Township of Vaughan, before, &c., (*see above*) again duly convicted of having on the 2nd day of November, A.D. 1876, at the Village of Markham (being the keeper of a tavern), situate in the said Village of Markham, unlawfully allowed gambling in his said tavern (*or as the case may be.*)

I [*or* we], adjudged the offence of said X. Y. hereinbefore firstly mentioned to be his third offence against the Liquor Licenses Acts, A. B. being the Informant, and I [*or* we], adjudged the said X. Y. for his said third offence to be imprisoned in the Common Gaol of the said County of York, at Toronto, in the said County of York, there to be kept at hard labour for the space of three calendar months (*or as the case may be*).

Given under my [*or* our] hand and seal [*or* hands and seals] the day and year first above mentioned at Toronto, in the County of York.

C. D. (L. S.)
or C. D. (L. S.)
E. F. (L. S.)

SCHEDULE G.

Warrant of Commitment for First Offence when a Penalty is Imposed.

Ontario.
County of York,
To Wit:

To all or any of the Constables and other Peace officers in the said County of York, and to the Keeper of the Common Gaol of the said County at Toronto, in the County of York.

Whereas, X. Y., late of the City of Toronto, in the said County was on this day convicted before the undersigned, C. D., Police Magistrate in and for the City of Toronto [or C. D. and E. F., two of Her Majesty's Justices of the Peace in and for the City of Toronto *or* County of York, as case may be], for that he, the said X. Y., on at unlawfully did sell liquor without the license therefor by law required (*state offence as in the conviction*), A. B. being the informant, and it was thereby adjudged that the said X. Y., for his said offence should forfeit and pay the sum of (*as in conviction*), and should pay to the said A. B. the sum of for his costs in that behalf.

And it was thereby further adjudged that if the said several sums should not be paid forthwith, the said X. Y. should be imprisoned in the Common Gaol of the said County at Toronto, in the said County of York, there to be kept at hard labour for the space of , unless the said several sums and the costs and charges of conveying the said X. Y. to the said common gaol should be sooner paid.

And whereas the said X. Y. hath not paid the said several sums or any part thereof, although the time for payment thereof hath elapsed.

If a distress warrant issued and returned no goods or not sufficient goods, say, "And whereas, afterwards on the 16th day of January, A.D. 1877, I the said Police Magistrate (*or* we the said Justices), issued a warrant to the said constables or peace officers, or any of them, to levy the said several sums of and by distress and sale of the goods and chattels of the said X. Y.;

"And whereas it appears to me (*or* us) as well, by the return of the said warrant of distress by the constable who had the execution of the same as otherwise, that the said constable hath made diligent search for the goods and chattels of the said X. Y., but that no sufficient distress whereon to levy the said sums could be found."

Or when the issuing of a distress warrant would be ruinous to the defendant and his family, or if it appears that he has no goods whereon to levy a distress, then, instead of the foregoing recitals of the issue and return of the distress warrant, &c., say,

"And whereas it hath been made to appear to me (*or* us), that the issuing of a warrant by distress in this behalf would be ruinous to the said X. Y. and his family," *or* "that the said X. Y. hath no goods or chattels whereon to levy the said sums by distress" [*as the case may be*].

These are therefore to command you the said constables or peace officers, or any one of you to take the said X. Y., and him safely convey to the Common Gaol aforesaid, at Toronto, in the County of York, and there deliver him to the said keeper thereof, together with this precept.

And I (*or* we) do hereby command you the said keeper of the said Common Gaol to receive the said X. Y. into your custody in the said Common Gaol, there to imprison him and keep him at hard labour for the space of , unless the said several sums and all the costs and charges (of the said distress amounting to the sum of , and) of the commitment and conveying of the said X. Y. to the said Common Gaol, amounting to the further sum of shall be sooner paid unto you the said keeper, and for so doing this shall be your sufficient warrant.

Given under my hand and seal (*or* our hands and seals), this day of A.D. 1877, at Toronto in the said County of York.

C. D. (L. S.)
or C. D. (L. S.)
E. F. (L. S.)

SCHEDULE H.

WARRANT OF COMMITMENT FOR SECOND (*or* THIRD) OFFENCE, WHERE PUNISHMENT IS BY IMPRISONMENT ONLY.

ONTARIO.
County of York,
To Wit:
} TO ALL or any of the Constables and other Peace Officers in the said County of York, and to the Keeper of the Common Gaol of the said County, at Toronto, in the County of York.

Whereas X. Y., late of the of in the said County, was on this day convicted before the undersigned C. D., &c., (*or* C. D. and E. F., &c.), as in preceding form, for that he, the said X. Y. on at (*state offence with previous convictions, as set forth in the conviction for the second* (*or third*) *offence, or as the case may be, and then proceed thus*): "And it was thereby adjudged that the offence of the said X. Y., hereinbefore firstly mentioned, was his second (o third) offence against the Liquor Licenses Acts, A. B. being the informant. And it was thereby further adjudged that the said X. Y., for his said second (*or* third) offence, should be imprisoned in the Common Gaol of the said County of York, at Toronto, in the said County of York, and there to be kept at hard labour for the space of three calendar months.

These are therefore to command you the said Constables, or any one of you, to take the said X. Y., and him safely convey to the said Common Gaol at Toronto aforesaid, and there deliver him to the Keeper thereof, together with this precept. And I (*or* we) do hereby command you, the said Keeper of the said Common Gaol, to receive the said X. Y. into your custody in the said Common Gaol, there to imprison him and to keep him at hard labour for the space of three calendar months.

Given under my hand and seal, this   day of   A.D. 1877, at Toronto, in the said County of York.

C. D. [L.S.]
or C. D. [L.S.]
E. F. [L.S.]

83

No. 83.

2nd Session, 3rd Parliament, 40 Vic., 1877.

BILL.

An Act to amend the Acts respecting the sale of Fermented or Spirituous Liquors.

1st Reading, 15th January, 1877.
2nd " 30th " 1877.
3rd " 16th February, 1877.

HON. MR. CROOKS.